

SESSION LAWS OF MISSOURI

**Passed during the
NINETY-FIRST GENERAL ASSEMBLY**

First Regular Session, which convened at the City of Jefferson, Wednesday,
January 3, 2001, and adjourned May 30, 2001.

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First Regular Session
Ninety-first General Assembly

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2000 - 2001

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HOW TO USE THE SESSION LAWS

The first pages contain the *Popular Name Table* and the *Table of Sections Affected by 2001 Legislation*.

The text of all 2001 House and Senate Bills and the Concurrent Resolutions appear next. The appropriation bills are presented first, with all others following in numerical order.

A subject index is included at the end of this volume.

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Authority for Publishing Session Laws and Resolutions

Section 2.030, Revised Statutes of Missouri, 2000. — General Assembly to provide for printing and binding of laws. — The sixty-fourth general assembly and each general assembly thereafter, whether in regular or extraordinary session, shall by concurrent resolution adopted by both houses, provide for collating, indexing, printing and binding all laws and resolutions of the session and all measures approved by the people since the last publication of the laws and resolutions in the manner directed by the resolution. The general assembly may by concurrent resolution require that all laws passed by the general assembly and all resolutions adopted prior to any recess of the general assembly for a period of thirty days or more shall be collated, indexed, bound and distributed as provided by law, and any edition published pursuant to the concurrent resolution is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

Section 2.040, Revised Statutes of Missouri, 2000. — Duties of Legislative Research in printing and binding. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of such laws and resolutions, giving the date of the approval or adoption thereof for printing in accordance with the directions of the general assembly as given by concurrent resolution. The joint committee on legislative research shall edit, headnote, collate, index the laws, resolutions and constitutional amendments, and shall compare the proof sheets of the printed copies with the original rolls, note all errors which have been committed, if any, and cause errata thereof to be annexed to the completed printed copies, and the revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

SENATE CONCURRENT RESOLUTION NO. 22, 2001 General Assembly.—BE IT RESOLVED by the members of the Senate of the Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, that the Missouri Committee on Legislative Research shall prepare and cause to be collated, indexed, printed and bound all acts and resolutions of the Ninety-first General Assembly, First Regular Session, and shall examine the printed copies and compare them with and correct the same by the original rolls, together with an attestation under the hand of the Revisor of Statutes that he has compared the same with the original rolls in his office and has corrected the same thereby; and

BE IT FURTHER RESOLVED that the size and quality of the paper and binding shall be substantially the same used in prior session laws and the size and style of type shall be determined by the Revisor of Statutes; and

BE IT FURTHER RESOLVED that the Joint Committee on Legislative Research is authorized to print and bind copies of the acts and resolutions of the Ninety-first General Assembly, First Regular Session, with appropriate indexing; and

BE IT FURTHER RESOLVED that the Revisor of Statutes is authorized to determine the number of copies to be printed.

ATTESTATION

STATE OF MISSOURI)

) ss.

City of Jefferson)

I, Ralph C. Kidd, Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-First General Assembly of the State of Missouri, convened in first regular session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this 18th day of July A.D. two thousand one.

Ralph C. Kidd
Revisor of Statutes

EFFECTIVE DATE OF LAWS

Section 29, Article III of the Constitution provides:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

The Ninety-first General Assembly, First Regular Session, convened Wednesday, January 3, 2001, and adjourned May 30, 2001. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2001.

JOINT RESOLUTIONS AND INITIATIVE PETITIONS

Section 2(b), Article XII of the Constitution provides:

“All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.”

The Ninety-first General Assembly, First Regular Session, passed one Joint Resolution. Resolutions approved will be published as provided in Section 116.340, RSMo 2000, which reads:

“116.340. Publication of approved measures. — When a statewide ballot measure is approved by the voters, the secretary of state* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.”

*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2001 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.



The Joint Committee on Legislative Research is pleased to state that the *2001 Session Laws* is produced with soy-based ink.

POPULAR NAME TABLE

2001 LEGISLATION

Alzheimer's Awareness Day, HB 603
Section 9.160

Bird Appreciation Day, SB 58
Section 9.105

CASA (Court-Appointed Special Advocate) Fund, HB 107
Sections 476.777 and 488.636

Death Penalty for Mentally Retarded, SB 267
Section 565.030

Jake's Law/Stacy's Law, Car Jackings, HB 144
Section 221.510

Lifelong Learning Month, SB 201
Section 9.140

One-Call Notification Bill (Dig Rite), HB 425
Sections 319.015 to 319.050

Operation Recognition - High School Diploma for Veterans, HB 441
Section 160.341

Penitentiary Redevelopment Commission, State, HB 621
Sections 217.900 to 217.910

Public Rights-of-Way, SB 369
Sections 67.1830 to 67.1846

Sgt. Robert Kimberling Memorial Highway, HB 470
Section 227.318

Stacy's Law/Jake's Law, Car Jackings, HB 144
Section 221.510

Tort Victims' Fund, HB 107
Sections 537.675 to 537.693

Women Offender Program, SB 200
Section 217.015

Women's Health, HB 762
Sections 208.151, 376.1199, 376.1209

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**TABLE OF SECTIONS AFFECTED
BY
2001 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
8.001	New	SB 470	56.066	Amended	HB 52
8.003	New	SB 470	56.085	Amended	SB 267
8.007	New	SB 470	56.765	Amended	SB 267
9.105	New	SB 58	56.807	Amended	SB 290
9.140	New	HB 218	56.816	Amended	SB 290
9.140	New	SB 201	57.010	Vetoed	SB 341
9.160	New	HB 603	57.010	Amended	HB 80
28.681	Amended	SB 288	57.020	Amended	HB 80
32.056	Amended	HB 80	57.030	Amended	HB 80
32.056	Amended	HB 144	57.130	Amended	SB 267
32.056	Amended	SB 4	58.490	Amended	HB 745
32.085	Amended	SB 203	59.005	New	HB 606
32.091	Amended	SB 540	59.005	New	SB 288
32.091	Amended	HB 897	59.005	New	SB 515
34.115	Amended	HB 207	59.040	Repealed	SB 288
43.265	Amended	HB 163	59.041	Amended	SB 288
43.503	Amended	SB 267	59.042	New	SB 288
50.334	Amended	HB 84	59.043	New	SB 288
50.1000	Amended	SB 274	59.050	Repealed	SB 288
50.1010	Amended	SB 274	59.090	Amended	SB 288
50.1230	Amended	SB 274	59.100	Amended	SB 288
50.1250	Amended	SB 274	59.130	Amended	SB 288

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
59.250	Amended	SB 288	67.577	New	SB 323
59.255	Amended	SB 288	67.1003	Amended	SB 323
59.257	Amended	SB 288	67.1003	Amended	HB 242
59.260	Amended	SB 288	67.1005	New	SB 323
59.300	Amended	SB 288	67.1300	Amended	SB 323
59.310	Amended	SB 515	67.1352	New	HB 922
59.310	Amended	HB 606	67.1360	Amended	HB 242
59.313	Amended	HB 606	67.1360	Amended	SB 323
59.313	Amended	SB 515	67.1713	New	SB 203
59.800	New	SB 288	67.1775	Amended	SB 323
64.170	Vetoed	HB 185	67.1830	New	SB 369
64.170	Amended	SB 86	67.1832	New	SB 369
64.180	Vetoed	HB 185	67.1834	New	SB 369
64.180	Amended	SB 86	67.1836	New	SB 369
64.196	Vetoed	HB 185	67.1838	New	SB 369
64.196	New	SB 86	67.1840	New	SB 369
64.342	Vetoed	HB 185	67.1842	New	SB 369
64.342	Amended	SB 86	67.1844	New	SB 369
67.133	Amended	SB 267	67.1846	New	SB 369
67.571	New	SB 323	67.1860	New	SB 224
67.572	New	SB 323	67.1860	New	HB 80
67.573	New	SB 323	67.1862	New	HB 80
67.574	New	SB 323	67.1862	New	SB 224
67.576	New	SB 323	67.1864	New	SB 224

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
67.1864	New	HB 80	67.1888	New	HB 80
67.1866	New	HB 80	67.1890	New	HB 80
67.1866	New	SB 224	67.1890	New	SB 224
67.1868	New	SB 224	67.1892	New	SB 224
67.1868	New	HB 80	67.1892	New	HB 80
67.1870	New	HB 80	67.1894	New	HB 80
67.1870	New	SB 224	67.1894	New	SB 224
67.1872	New	SB 224	67.1896	New	SB 224
67.1872	New	HB 80	67.1896	New	HB 80
67.1874	New	HB 80	67.1898	New	HB 80
67.1874	New	SB 224	67.1898	New	SB 224
67.1876	New	SB 224	67.1922	New	SB 323
67.1876	New	HB 80	67.1925	New	SB 323
67.1878	New	HB 80	67.1928	New	SB 323
67.1878	New	SB 224	67.1931	New	SB 323
67.1880	New	SB 224	67.1934	New	SB 323
67.1880	New	HB 80	67.1937	New	SB 323
67.1882	New	HB 80	67.1940	New	SB 323
67.1882	New	SB 224	67.1950	New	SB 323
67.1884	New	SB 224	67.1953	New	SB 323
67.1884	New	HB 80	67.1956	New	SB 323
67.1886	New	HB 80	67.1959	New	SB 323
67.1886	New	SB 224	67.1962	New	SB 323
67.1888	New	SB 224	67.1965	New	SB 323

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
67.1968	New	SB 323	86.237	Amended	SB 290
67.1971	New	SB 323	86.250	Amended	SB 290
67.1974	New	SB 323	86.251	Amended	SB 290
67.1977	New	SB 323	86.252	Amended	SB 290
67.1978	New	SB 323	86.253	Amended	SB 290
67.1979	New	SB 323	86.256	Amended	SB 290
70.827	New	HB 80	86.257	Amended	SB 290
70.829	New	HB 80	86.260	Amended	SB 290
70.831	New	HB 80	86.263	Amended	SB 290
70.833	New	HB 80	86.267	Amended	SB 290
71.285	Amended	HB 410	86.288	Amended	SB 290
71.285	Amended	SB 345	86.290	Amended	SB 290
71.640	Amended	SB 430	86.292	Amended	SB 290
72.424	Vetoed	SB 606	86.300	Amended	SB 290
77.370	Amended	HB 491	86.320	Amended	SB 290
77.450	Amended	HB 491	86.340	Amended	SB 290
78.450	Amended	HB 498	86.353	Amended	SB 290
82.300	Amended	SB 345	86.360	Amended	SB 290
84.480	Amended	SB 4	86.365	Amended	SB 290
84.510	Amended	SB 4	86.370	Amended	SB 290
86.200	Amended	SB 290	86.447	Amended	SB 290
86.207	Amended	SB 290	86.450	Amended	SB 290
86.213	Amended	SB 290	86.457	Amended	SB 290
86.233	Amended	SB 290	86.463	Amended	SB 290

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
86.483	Amended	SB 290	94.812	Amended	SB 323
86.600	Amended	SB 290	95.280	Amended	SB 441
86.620	Amended	SB 290	100.331	Amended	HB 596
86.671	New	SB 290	104.010	Amended	SB 371
86.675	Amended	SB 290	104.170	Amended	SB 371
86.690	Amended	SB 290	104.175	New	SB 371
86.750	Amended	SB 290	104.312	Amended	SB 371
86.780	Amended	SB 290	104.330	Amended	SB 371
87.120	Amended	SB 290	104.339	Amended	SB 371
87.130	Amended	SB 290	104.345	Amended	SB 371
87.135	Amended	SB 290	104.372	Amended	SB 371
87.170	Amended	SB 290	104.374	Amended	SB 371
87.185	Amended	SB 290	104.380	Amended	SB 371
87.205	Amended	SB 290	104.395	Amended	SB 371
87.215	Amended	SB 290	104.401	Amended	SB 371
87.237	Amended	SB 290	104.420	Amended	SB 371
87.240	Amended	SB 290	104.450	Amended	SB 371
87.288	Amended	SB 290	104.515	Amended	SB 371
87.310	Amended	SB 290	104.518	Amended	SB 371
87.371	Amended	SB 290	104.530	Amended	SB 371
87.615	Amended	SB 290	104.600	Repealed	SB 371
92.402	Amended	HB 321	104.601	Amended	SB 371
94.575	New	SB 352	104.602	Amended	SB 371
94.577	Amended	HB 80	104.625	New	SB 371

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
104.1003	Amended	SB 371	128.410	New	HB 1000
104.1021	Amended	SB 371	128.415	New	HB 1000
104.1024	Amended	SB 371	128.420	New	HB 1000
104.1027	Amended	SB 371	128.425	New	HB 1000
104.1030	Amended	SB 371	128.430	New	HB 1000
104.1039	Amended	SB 371	128.435	New	HB 1000
104.1051	Amended	SB 371	128.440	New	HB 1000
104.1072	Amended	SB 371	135.230	Amended	HB 453
104.1078	Amended	SB 371	135.230	Amended	HB 738
104.1093	Amended	SB 371	135.490	Amended	HB 590
104.1200	New	SB 371	136.035	Amended	HB 816
104.1205	New	SB 371	136.076	New	HB 129
104.1210	New	SB 371	139.050	Amended	HB 738
104.1215	New	SB 371	139.050	Amended	SB 186
105.266	New	HB 679	139.052	Amended	HB 738
105.269	Amended	HB 660	139.052	Amended	SB 186
109.120	Amended	HB 453	139.053	Amended	HB 738
109.120	Amended	HB 567	139.053	Amended	SB 186
109.241	Amended	HB 453	141.265	Vetoed	SB 606
109.241	Amended	HB 567	142.027	Vetoed	SB 606
128.345	Amended	HB 1000	144.010	Amended	SB 234
128.346	Amended	HB 1000	144.020	Amended	HB 933
128.400	New	HB 1000	144.190	Amended	HB 816
128.405	New	HB 1000	144.815	Amended	HB 825

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
145.1000	New	HB 241	167.181	Amended	SB 393
148.064	Amended	HB 738	167.640	Amended	SB 319
148.064	Amended	SB 186	167.645	Amended	SB 319
148.400	Amended	HB 738	167.680	New	SB 319
148.400	Amended	SB 193	169.070	Amended	HB 660
149.015	Amended	HB 381	169.075	Amended	HB 660
149.200	New	HB 381	169.270	Amended	HB 660
149.203	New	HB 381	169.280	Amended	HB 660
149.206	New	HB 381	169.291	Amended	HB 660
149.212	New	HB 381	169.301	Amended	HB 660
149.215	New	HB 381	169.315	Amended	HB 660
160.261	Amended	SB 89	169.324	Amended	HB 660
160.341	New	HB 441	169.410	Amended	HB 660
160.420	Amended	HB 660	169.420	Amended	HB 660
160.518	Amended	SB 319	169.430	Amended	HB 660
160.522	Amended	SB 575	169.440	Amended	HB 660
160.522	Amended	HB 865	169.450	Amended	HB 660
161.112	Amended	HB 45	169.460	Amended	HB 660
162.481	Amended	HB 660	169.462	Repealed	HB 660
163.011	Amended	SB 353	169.466	Amended	HB 660
163.191	Amended	SB 295	169.471	Amended	HB 660
165.011	Amended	SB 543	169.475	Amended	HB 660
165.011	Vetoed	HB 725	169.476	Amended	HB 660
167.181	Amended	HB 567	169.480	Amended	HB 660

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
169.490	Amended	HB 660	175.021	Amended	HB 218
169.500	Amended	HB 660	175.023	New	HB 218
169.510	Amended	HB 660	177.082	New	SB 303
169.520	Amended	HB 660	178.892	Amended	SB 500
169.540	Amended	HB 660	178.930	Amended	SB 321
169.569	New	HB 660	190.109	Amended	SB 619
169.569	New	SB 316	190.143	New	SB 619
169.650	Amended	HB 660	190.500	Amended	HB 431
169.670	Amended	HB 660	191.211	Amended	SB 393
171.033	Amended	HB 274	191.213	New	SB 393
172.037	Amended	HB 218	191.332	New	HB 279
172.360	Amended	HB 218	191.411	Amended	SB 393
172.360	Amended	SB 25	191.600	Amended	SB 393
172.790	New	HB 218	191.600	Amended	HB 567
172.792	New	HB 218	191.603	Amended	HB 567
172.794	New	HB 218	191.603	Amended	SB 393
172.796	New	HB 218	191.605	Amended	SB 393
172.798	New	HB 218	191.605	Amended	HB 567
172.875	New	HB 821	191.607	Amended	HB 567
174.056	New	HB 218	191.607	Amended	SB 393
174.610	Amended	HB 218	191.609	Amended	SB 393
174.620	Amended	HB 218	191.609	Amended	HB 567
174.621	New	HB 218	191.611	Amended	HB 567
175.020	Amended	HB 218	191.611	Amended	SB 393

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
191.614	Amended	SB 393	195.246	Amended	SB 89
191.614	Amended	HB 567	195.400	Amended	HB 471
191.615	Amended	HB 567	195.417	New	HB 471
191.615	Amended	SB 393	195.417	New	SB 89
191.714	New	SB 266	195.418	New	HB 471
191.938	New	HB 567	195.418	New	SB 89
191.938	New	SB 266	195.515	New	SB 89
191.975	New	SB 266	196.100	Amended	HB 796
192.002	New	HB 603	196.100	Amended	SB 514
192.070	Amended	HB 567	196.367	New	HB 453
192.070	Amended	SB 393	196.367	New	SB 266
192.729	New	HB 106	197.285	Amended	HB 328
192.729	New	SB 266	197.285	Amended	HB 762
193.185	Amended	HB 157	198.280	Amended	HB 881
194.115	Amended	SB 267	198.531	Amended	SB 266
195.010	Amended	HB 471	199.170	Amended	SB 266
195.010	Amended	SB 89	199.180	Amended	SB 266
195.017	Amended	HB 471	199.200	Amended	SB 266
195.070	Amended	HB 471	204.300	Amended	HB 501
195.222	Amended	HB 471	204.370	Amended	HB 501
195.223	Amended	HB 471	208.028	Repealed	SB 236
195.235	Amended	HB 471	208.029	Repealed	SB 236
195.235	Amended	SB 89	208.040	Amended	SB 236
195.246	Amended	HB 471	208.146	New	SB 236

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
208.151	Amended	HB 762	210.903	Amended	SB 48
208.453	Vetoed	SB 606	210.906	Amended	SB 48
208.455	Vetoed	SB 606	210.909	Amended	SB 48
208.457	Vetoed	SB 606	210.915	Amended	SB 48
208.459	Vetoed	SB 606	210.921	Amended	SB 48
208.461	Vetoed	SB 606	210.922	New	SB 48
208.463	Vetoed	SB 606	210.927	Amended	SB 48
208.465	Vetoed	SB 606	210.930	Amended	SB 48
208.467	Vetoed	SB 606	210.936	Amended	SB 48
208.469	Vetoed	SB 606	214.030	Amended	HB 408
208.471	Vetoed	SB 606	214.035	New	HB 408
208.471	Amended	HB 955	214.209	New	HB 567
208.473	Vetoed	SB 606	214.275	Amended	HB 567
208.475	Vetoed	SB 606	214.276	Amended	HB 567
208.479	Vetoed	SB 606	214.367	Amended	HB 567
208.480	Vetoed	SB 606	214.392	Amended	HB 567
208.480	Amended	HB 955	217.015	Amended	HB 180
208.819	New	SB 236	217.015	Amended	SB 200
209.251	Amended	HB 567	217.440	Vetoed	SB 606
210.001	Amended	SB 48	217.900	New	HB 621
210.140	Amended	SB 267	221.510	New	HB 144
210.861	Amended	SB 323	226.003	New	SB 244
210.870	New	HB 236	227.318	New	HB 470
210.900	Amended	SB 48	238.207	Amended	HB 202

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
238.216	Amended	HB 202	252.321	Amended	SB 462
238.220	Amended	HB 202	252.324	Amended	SB 462
238.235	Amended	HB 202	252.324	Amended	HB 904
238.252	Amended	HB 202	252.330	Amended	HB 904
247.165	New	SB 267	252.330	Amended	SB 462
247.171	New	SB 267	252.333	Amended	SB 462
247.224	Repealed	SB 267	252.333	Amended	HB 904
249.1100	New	HB 501	256.459	Amended	HB 567
249.1103	New	HB 501	262.800	New	SB 462
249.1106	New	HB 501	262.801	New	SB 462
249.1109	New	HB 501	262.802	New	SB 462
249.1112	New	HB 501	262.805	New	SB 462
249.1115	New	HB 501	262.810	New	SB 462
249.1118	New	HB 501	263.232	New	SB 345
250.236	Amended	HB 501	263.232	New	HB 473
252.303	Amended	HB 904	272.010	Amended	HB 219
252.303	Amended	SB 462	272.010	Amended	SB 462
252.306	Amended	SB 462	272.020	Amended	SB 462
252.306	Amended	HB 904	272.020	Amended	HB 219
252.309	Amended	HB 904	272.040	Amended	HB 219
252.309	Amended	SB 462	272.040	Amended	SB 462
252.315	Amended	SB 462	272.050	Amended	SB 462
252.315	Amended	HB 904	272.050	Amended	HB 219
252.321	Amended	HB 904	272.060	Amended	HB 219

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
272.060	Amended	SB 462	272.190	Repealed	SB 462
272.070	Amended	SB 462	272.200	Repealed	SB 462
272.070	Amended	HB 219	272.200	Repealed	HB 219
272.100	Amended	HB 219	274.060	Amended	SB 462
272.100	Amended	SB 462	278.080	Amended	SB 462
272.110	Amended	SB 462	278.220	Amended	SB 462
272.110	Amended	HB 219	278.240	Amended	SB 462
272.130	Amended	HB 219	278.245	Amended	SB 462
272.130	Amended	SB 462	278.250	Amended	SB 462
272.132	New	SB 462	278.280	Amended	SB 462
272.132	New	HB 219	278.290	Amended	SB 462
272.134	New	HB 219	278.300	Amended	SB 462
272.134	New	SB 462	287.123	Amended	SB 521
272.136	New	SB 462	287.610	Amended	SB 267
272.136	New	HB 219	292.606	Amended	HB 453
272.150	Repealed	HB 219	301.040	Amended	HB 691
272.150	Repealed	SB 462	301.041	Amended	SB 520
272.160	Repealed	SB 462	301.057	Amended	SB 520
272.160	Repealed	HB 219	301.058	Amended	SB 520
272.170	Repealed	HB 219	301.121	Amended	SB 520
272.170	Repealed	SB 462	301.130	Amended	SB 520
272.180	Repealed	SB 462	301.142	Amended	SB 111
272.180	Repealed	HB 219	301.144	Amended	SB 13
272.190	Repealed	HB 219	301.260	Amended	SB 244

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
301.441	Amended	SB 13	302.535	Amended	HB 302
301.464	Amended	SB 142	302.540	Amended	HB 302
301.600	Amended	HB 738	302.541	Amended	HB 302
301.600	Amended	SB 186	302.735	Amended	SB 436
301.3035	New	SB 407	303.025	Amended	SB 267
301.3039	New	SB 407	303.041	Amended	SB 267
301.3057	New	SB 407	304.015	Amended	SB 244
301.3059	New	SB 407	304.027	New	HB 302
301.3081	New	SB 442	304.035	Amended	SB 244
302.130	Amended	HB 648	304.180	Amended	SB 244
302.138	Repealed	HB 420	304.580	Amended	SB 244
302.172	New	SB 406	306.165	Amended	HB 732
302.173	Amended	SB 406	306.165	Amended	SB 443
302.173	Amended	SB 244	307.100	Amended	HB 458
302.174	New	SB 275	307.173	Amended	SB 244
302.177	Amended	SB 436	307.375	Amended	SB 244
302.178	Amended	HB 648	311.299	New	SB 130
302.286	New	SB 244	313.353	Vetoed	SB 606
302.302	Amended	HB 302	313.835	Amended	HB 207
302.304	Amended	HB 302	313.840	Amended	SB 556
302.309	Amended	HB 302	319.015	Amended	HB 425
302.505	Amended	HB 302	319.022	Amended	HB 425
302.510	Amended	HB 302	319.023	Amended	HB 425
302.520	Amended	HB 302	319.024	Amended	HB 425

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
319.025	Amended	HB 425	324.243	Amended	HB 567
319.026	Amended	HB 425	324.522	Amended	HB 567
319.028	New	HB 425	324.530	New	HB 567
319.030	Amended	HB 425	324.700	New	HB 567
319.036	New	HB 425	324.700	New	SB 317
319.037	New	HB 425	324.703	New	SB 317
319.041	New	HB 425	324.703	New	HB 567
319.045	Amended	HB 425	324.706	New	HB 567
319.050	Amended	HB 425	324.706	New	SB 317
319.129	Amended	HB 453	324.709	New	SB 317
319.131	Amended	HB 453	324.709	New	HB 567
319.132	Amended	HB 453	324.712	New	HB 567
319.133	Amended	HB 453	324.712	New	SB 317
320.091	Amended	SB 197	324.715	New	SB 317
322.010	Amended	SB 462	324.715	New	HB 567
322.140	New	SB 462	324.718	New	HB 567
322.145	New	SB 462	324.721	New	HB 567
324.083	Repealed	HB 567	324.724	New	HB 567
324.086	Amended	HB 567	324.727	New	HB 567
324.177	Amended	HB 567	324.730	New	HB 567
324.212	Amended	HB 567	324.733	New	HB 567
324.212	Amended	SB 384	324.736	New	HB 567
324.217	Amended	SB 384	324.739	New	HB 567
324.217	Amended	HB 567	324.742	New	HB 567

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
324.742	New	SB 317	326.190	Repealed	HB 567
324.745	New	SB 317	326.200	Repealed	HB 567
324.745	New	HB 567	326.210	Repealed	HB 567
326.011	Repealed	HB 567	326.230	Repealed	HB 567
326.012	Repealed	HB 567	326.250	New	HB 567
326.021	Repealed	HB 567	326.253	New	HB 567
326.022	Repealed	HB 567	326.256	New	HB 567
326.040	Repealed	HB 567	326.259	New	HB 567
326.050	Repealed	HB 567	326.262	New	HB 567
326.055	Repealed	HB 567	326.265	New	HB 567
326.060	Repealed	HB 567	326.268	New	HB 567
326.100	Repealed	HB 567	326.271	New	HB 567
326.110	Repealed	HB 567	326.274	New	HB 567
326.120	Repealed	HB 567	326.277	New	HB 567
326.121	Repealed	HB 567	326.280	New	HB 567
326.125	Repealed	HB 567	326.283	New	HB 567
326.130	Repealed	HB 567	326.286	New	HB 567
326.131	Repealed	HB 567	326.289	New	HB 567
326.133	Repealed	HB 567	326.292	New	HB 567
326.134	Repealed	HB 567	326.295	New	HB 567
326.151	Repealed	HB 567	326.298	New	HB 567
326.160	Repealed	HB 567	326.304	New	HB 567
326.170	Repealed	HB 567	326.307	New	HB 567
326.180	Repealed	HB 567	326.310	New	HB 567

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
326.313	New	HB 567	327.625	Repealed	HB 567
326.316	New	HB 567	327.627	Repealed	HB 567
326.319	New	HB 567	327.629	Amended	HB 567
326.322	New	HB 567	327.630	Amended	HB 567
326.325	New	HB 567	327.631	Amended	HB 567
326.328	New	HB 567	329.010	Amended	HB 567
326.331	New	HB 567	329.040	Amended	HB 567
327.011	Amended	HB 567	329.050	Amended	HB 567
327.031	Amended	HB 567	329.085	Amended	HB 567
327.041	Amended	HB 567	329.190	Amended	HB 567
327.081	Amended	HB 567	329.210	Amended	HB 567
327.131	Amended	HB 567	331.032	New	HB 567
327.314	Amended	HB 567	331.050	Amended	HB 567
327.381	Amended	HB 567	331.090	Amended	HB 567
327.600	Amended	HB 567	332.072	Amended	HB 567
327.603	Amended	HB 567	332.072	Amended	HB 607
327.605	Repealed	HB 567	332.072	Amended	SB 393
327.607	Amended	HB 567	332.086	New	SB 393
327.609	Repealed	HB 567	332.086	New	HB 567
327.612	Amended	HB 567	332.181	Amended	SB 393
327.615	Amended	HB 567	332.261	Amended	SB 393
327.617	Amended	HB 567	332.311	Amended	SB 393
327.621	Amended	HB 567	332.311	Amended	HB 567
327.623	Amended	HB 567	332.321	Amended	SB 393

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
332.324	New	SB 393	337.659	New	HB 567
332.324	New	HB 567	337.662	New	HB 567
333.041	Amended	HB 48	337.665	New	HB 567
333.042	Amended	HB 48	337.668	New	HB 567
333.061	Amended	HB 48	337.671	New	HB 567
333.081	Amended	HB 48	337.674	New	HB 567
334.021	Amended	HB 567	337.677	New	HB 567
334.047	Amended	HB 567	337.680	New	HB 567
334.128	Amended	HB 78	337.683	New	HB 567
334.128	Vetoed	SB 207	337.686	New	HB 567
334.625	Amended	HB 567	337.689	New	HB 567
334.720	New	HB 567	338.030	Amended	HB 567
334.749	Amended	HB 567	338.043	Amended	HB 567
334.870	Amended	HB 567	338.055	Amended	HB 567
334.880	Amended	HB 567	338.210	Amended	HB 567
334.890	Amended	HB 567	338.220	Amended	HB 567
337.029	Amended	SB 357	338.285	Amended	HB 567
337.510	Amended	SB 357	338.353	Amended	HB 567
337.612	Amended	HB 567	339.090	Amended	HB 567
337.615	Amended	HB 567	339.151	New	HB 266
337.618	Amended	HB 567	340.335	New	SB 462
337.622	Amended	HB 567	340.337	New	SB 462
337.650	New	HB 567	340.339	New	SB 462
337.653	New	HB 567	340.341	New	SB 462

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
340.343	New	SB 462	351.458	Amended	SB 288
340.345	New	SB 462	351.478	Amended	SB 288
340.347	New	SB 462	351.482	Amended	SB 288
340.350	New	SB 462	351.608	New	SB 288
345.080	Amended	HB 567	352.500	Amended	HB 664
347.048	New	SB 288	352.505	Amended	HB 664
347.189	Amended	SB 178	352.510	Amended	HB 664
347.189	Repealed	SB 288	352.515	Amended	HB 664
347.189	Amended	SB 345	352.520	Amended	HB 664
347.740	Vetoed	SB 606	354.603	Amended	HB 328
347.740	Amended	HB 453	354.606	Amended	HB 328
347.740	Amended	SB 288	355.023	Amended	HB 453
348.432	Amended	SB 462	355.023	Amended	SB 288
351.120	Amended	SB 288	355.023	Vetoed	SB 606
351.127	Amended	HB 453	356.233	Vetoed	SB 606
351.127	Amended	SB 288	356.233	Amended	HB 453
351.127	Vetoed	SB 606	356.233	Amended	SB 288
351.220	Amended	SB 288	359.653	Amended	HB 453
351.268	Amended	SB 288	359.653	Amended	SB 288
351.410	Amended	SB 288	359.653	Vetoed	SB 606
351.415	Amended	SB 288	362.044	Amended	HB 738
351.430	Amended	SB 288	362.044	Amended	SB 186
351.435	Amended	SB 288	362.105	Amended	HB 738
351.440	Repealed	SB 288	362.105	Amended	SB 186

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
362.106	Amended	HB 738	367.500	Amended	HB 738
362.106	Amended	SB 186	367.500	Amended	SB 186
362.109	New	HB 738	367.503	Amended	HB 738
362.109	New	SB 186	367.503	Amended	SB 186
362.119	Amended	HB 738	367.506	Amended	HB 738
362.119	Amended	SB 186	367.506	Amended	SB 186
362.170	Amended	HB 738	367.509	Amended	HB 738
362.170	Amended	SB 186	367.509	Amended	SB 186
362.270	Amended	HB 738	367.512	Amended	HB 738
362.270	Amended	SB 186	367.512	Amended	SB 186
362.325	Amended	HB 738	367.515	Amended	HB 738
362.325	Amended	SB 186	367.515	Amended	SB 186
362.335	Amended	HB 738	367.518	Amended	HB 738
362.335	Amended	SB 186	367.518	Amended	SB 186
362.495	Amended	HB 738	367.521	Amended	HB 738
362.495	Amended	SB 186	367.521	Amended	SB 186
362.935	Amended	HB 738	367.524	Amended	HB 738
362.935	Amended	SB 186	367.524	Amended	SB 186
362.942	Repealed	HB 738	367.525	New	HB 738
362.942	Repealed	SB 186	367.525	New	SB 186
367.100	Amended	HB 738	367.527	Amended	HB 738
367.100	Amended	SB 186	367.527	Amended	SB 186
367.215	Amended	HB 738	367.530	Amended	HB 738
367.215	Amended	SB 186	367.530	Amended	SB 186

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
367.531	New	HB 738	375.046	Amended	SB 193
367.531	New	SB 186	375.051	Amended	SB 193
367.532	New	HB 738	375.052	New	SB 193
367.532	New	SB 186	375.061	Repealed	SB 193
374.285	New	SB 193	375.065	Amended	SB 193
374.700	Amended	SB 267	375.071	Amended	SB 193
374.757	New	SB 267	375.076	Amended	SB 193
375.012	Amended	SB 193	375.081	Repealed	SB 193
375.014	Amended	SB 193	375.082	Repealed	SB 193
375.015	New	SB 193	375.086	Repealed	SB 193
375.016	Amended	SB 193	375.091	Repealed	SB 193
375.017	Amended	SB 193	375.096	Repealed	SB 193
375.018	Amended	SB 193	375.101	Repealed	SB 193
375.019	Amended	SB 193	375.106	Amended	SB 193
375.020	Amended	SB 193	375.116	Amended	SB 193
375.021	Repealed	SB 193	375.121	Repealed	SB 193
375.022	Amended	SB 193	375.136	Amended	SB 193
375.025	Amended	SB 193	375.141	Amended	SB 193
375.027	Repealed	SB 193	375.142	Repealed	SB 193
375.031	Amended	SB 193	375.158	Amended	SB 193
375.033	Amended	SB 193	375.355	Amended	HB 212
375.035	Amended	SB 193	375.355	Amended	SB 241
375.037	Amended	SB 193	375.1220	Amended	HB 459
375.039	Amended	SB 193	376.383	Amended	HB 328

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
376.384	New	HB 328	400.2.210	Amended	SB 288
376.406	Amended	HB 328	400.2.326	Amended	SB 288
376.1199	New	HB 762	400.2.401	Amended	SB 288
376.1199	New	SB 266	400.2.502	Amended	SB 288
376.1209	Amended	HB 762	400.2.716	Amended	SB 288
376.1290	New	SB 266	400.4.210	Amended	SB 288
379.124	New	SB 151	400.5.118	New	SB 288
379.126	New	SB 151	400.7.503	Amended	SB 288
379.127	New	SB 151	400.8.103	Amended	SB 288
379.316	Amended	SB 186	400.8.106	Amended	SB 288
379.321	Amended	SB 186	400.8.110	Amended	SB 288
379.356	Amended	SB 186	400.8.301	Amended	SB 288
379.356	Amended	SB 193	400.8.302	Amended	SB 288
379.425	Amended	SB 186	400.8.510	Amended	SB 288
379.770	Amended	HB 212	400.9.101	Amended	SB 288
379.888	Amended	SB 186	400.9.102	Amended	SB 288
384.043	Amended	SB 193	400.9.103	Amended	SB 288
384.043	Amended	SB 605	400.9.104	Amended	SB 288
386.515	New	SB 267	400.9.105	Amended	SB 288
393.158	Vetoed	SB 387	400.9.106	Amended	SB 288
393.159	Vetoed	SB 387	400.9.107	Amended	SB 288
400.1.105	Amended	SB 288	400.9.108	Amended	SB 288
400.1.201	Amended	SB 288	400.9.109	Amended	SB 288
400.2.103	Amended	SB 288	400.9.110	Amended	SB 288

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
400.9.111	Repealed	SB 288	400.9.308	Amended	SB 288
400.9.112	Repealed	SB 288	400.9.309	Amended	SB 288
400.9.113	Repealed	SB 288	400.9.310	Amended	SB 288
400.9.114	Repealed	SB 288	400.9.311	Amended	SB 288
400.9.115	Repealed	SB 288	400.9.312	Amended	SB 288
400.9.116	Repealed	SB 288	400.9.313	Amended	SB 288
400.9.118	Amended	SB 288	400.9.314	Amended	SB 288
400.9.201	Amended	SB 288	400.9.315	Amended	SB 288
400.9.202	Amended	SB 288	400.9.316	Amended	SB 288
400.9.203	Amended	SB 288	400.9.317	Amended	SB 288
400.9.204	Amended	SB 288	400.9.318	Amended	SB 288
400.9.205	Amended	SB 288	400.9.319	New	SB 288
400.9.206	Amended	SB 288	400.9.320	New	SB 288
400.9.207	Amended	SB 288	400.9.321	New	SB 288
400.9.208	Amended	SB 288	400.9.322	New	SB 288
400.9.209	New	SB 288	400.9.323	New	SB 288
400.9.210	New	SB 288	400.9.324	New	SB 288
400.9.301	Amended	SB 288	400.9.325	New	SB 288
400.9.302	Amended	SB 288	400.9.326	New	SB 288
400.9.303	Amended	SB 288	400.9.327	New	SB 288
400.9.304	Amended	SB 288	400.9.328	New	SB 288
400.9.305	Amended	SB 288	400.9.329	New	SB 288
400.9.306	Amended	SB 288	400.9.330	New	SB 288
400.9.307	Amended	SB 288	400.9.331	New	SB 288

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
400.9.332	New	SB 288	400.9.505	Amended	SB 288
400.9.333	New	SB 288	400.9.506	Amended	SB 288
400.9.334	New	SB 288	400.9.507	Amended	SB 288
400.9.335	New	SB 288	400.9.508	Amended	HB 453
400.9.336	New	SB 288	400.9.508	Amended	SB 288
400.9.337	New	SB 288	400.9.508	Vetoed	SB 606
400.9.338	New	SB 288	400.9.509	New	SB 288
400.9.339	New	SB 288	400.9.510	New	SB 288
400.9.340	New	SB 288	400.9.511	New	SB 288
400.9.341	New	SB 288	400.9.512	New	SB 288
400.9.342	New	SB 288	400.9.513	New	SB 288
400.9.401	Amended	SB 288	400.9.514	New	SB 288
400.9.402	Amended	SB 288	400.9.515	New	SB 288
400.9.403	Amended	SB 288	400.9.516	New	SB 288
400.9.404	Amended	SB 288	400.9.517	New	SB 288
400.9.405	Amended	SB 288	400.9.518	New	SB 288
400.9.406	Amended	SB 288	400.9.519	New	SB 288
400.9.407	Amended	SB 288	400.9.520	New	SB 288
400.9.408	Amended	SB 288	400.9.521	New	SB 288
400.9.409	Amended	SB 288	400.9.522	New	SB 288
400.9.501	Amended	SB 288	400.9.523	New	SB 288
400.9.502	Amended	SB 288	400.9.524	New	SB 288
400.9.503	Amended	SB 288	400.9.525	New	SB 288
400.9.504	Amended	SB 288	400.9.526	New	SB 288

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
400.9.527	New	SB 288	400.9.624	New	SB 288
400.9.601	New	SB 288	400.9.625	New	SB 288
400.9.602	New	SB 288	400.9.626	New	SB 288
400.9.603	New	SB 288	400.9.627	New	SB 288
400.9.604	New	SB 288	400.9.628	New	SB 288
400.9.605	New	SB 288	400.9.629	New	SB 288
400.9.606	New	SB 288	400.9.701	New	SB 288
400.9.607	New	SB 288	400.9.702	New	SB 288
400.9.608	New	SB 288	400.9.703	New	SB 288
400.9.609	New	SB 288	400.9.704	New	SB 288
400.9.610	New	SB 288	400.9.705	New	SB 288
400.9.611	New	SB 288	400.9.706	New	SB 288
400.9.612	New	SB 288	400.9.707	New	SB 288
400.9.613	New	SB 288	400.9.708	New	SB 288
400.9.614	New	SB 288	400.9.709	New	SB 288
400.9.615	New	SB 288	400.9.710	New	SB 288
400.9.616	New	SB 288	400.2A.103	Amended	SB 288
400.9.617	New	SB 288	400.2A.303	Amended	SB 288
400.9.618	New	SB 288	400.2A.307	Amended	SB 288
400.9.619	New	SB 288	400.2A.309	Amended	SB 288
400.9.620	New	SB 288	407.815	Amended	HB 575
400.9.621	New	SB 288	407.816	Amended	HB 575
400.9.622	New	SB 288	407.817	New	HB 575
400.9.623	New	SB 288	407.820	Amended	HB 575

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
407.820	Amended	HB 693	407.1332	New	HB 575
407.822	Amended	HB 575	407.1335	New	HB 575
407.822	Amended	HB 693	407.1338	New	HB 575
407.825	Amended	HB 575	407.1340	New	HB 575
407.826	New	HB 575	407.1343	New	HB 575
407.828	New	HB 575	407.1346	New	HB 575
407.857	New	SB 462	408.052	Amended	HB 738
407.924	New	HB 381	408.052	Amended	SB 186
407.926	New	HB 381	408.140	Amended	HB 738
407.927	Amended	HB 381	408.140	Amended	SB 186
407.928	New	HB 381	408.500	Amended	HB 738
407.929	Amended	HB 381	408.500	Amended	SB 186
407.931	Amended	HB 381	408.510	New	SB 186
407.933	New	HB 381	409.401	Amended	SB 462
407.934	New	HB 381	414.032	Amended	SB 462
407.1000	Repealed	HB 788	414.407	New	HB 453
407.1005	Repealed	HB 788	414.407	New	SB 244
407.1010	Repealed	HB 788	414.433	New	HB 453
407.1015	Repealed	HB 788	414.433	New	SB 462
407.1020	Repealed	HB 788	415.417	New	HB 453
407.1320	New	HB 575	417.018	Amended	HB 453
407.1323	New	HB 575	417.018	Amended	SB 288
407.1326	New	HB 575	417.018	Vetoed	SB 606
407.1329	New	HB 575	421.005	Amended	SB 110

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
421.007	Amended	SB 110	443.819	Amended	SB 538
421.011	Amended	SB 110	443.821	Amended	SB 538
421.022	Amended	SB 110	443.825	Amended	SB 538
421.028	Amended	SB 110	443.827	Amended	SB 538
421.031	Amended	SB 110	443.833	Amended	SB 538
421.034	Amended	SB 110	443.839	Amended	SB 538
427.220	New	HB 738	443.841	Amended	SB 538
427.220	New	SB 186	443.849	Amended	SB 538
431.181	New	SB 244	443.851	Amended	SB 179
431.202	New	SB 288	443.851	Amended	SB 538
441.236	New	HB 471	443.855	Amended	SB 538
441.236	New	SB 89	443.857	Amended	SB 538
441.500	Amended	HB 133	443.859	Amended	SB 538
441.510	Amended	HB 133	443.863	Amended	SB 538
441.520	Amended	HB 133	443.867	Amended	SB 538
441.550	Amended	HB 133	443.869	Amended	SB 538
441.590	Amended	HB 133	443.879	Amended	SB 538
442.030	Amended	HB 537	443.881	Amended	SB 538
442.606	New	SB 89	443.887	Amended	SB 538
443.803	Amended	SB 538	444.765	Amended	HB 453
443.805	Amended	SB 538	444.767	Amended	HB 453
443.809	Amended	SB 538	444.770	Amended	HB 453
443.810	Amended	SB 538	444.772	Amended	HB 453
443.812	Amended	SB 538	444.773	Amended	HB 453

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
444.774	Amended	HB 453	452.080	Amended	HB 537
444.775	Amended	HB 453	452.110	Amended	HB 537
444.777	Amended	HB 453	452.130	Amended	HB 537
444.778	Amended	HB 453	452.140	Amended	HB 537
444.782	Amended	HB 453	452.170	Amended	HB 537
444.784	Amended	HB 453	452.180	Amended	HB 537
444.786	Amended	HB 453	452.190	Amended	HB 537
444.787	Amended	HB 453	452.200	Amended	HB 537
444.788	Amended	HB 453	452.210	Amended	HB 537
444.789	Amended	HB 453	452.220	Amended	HB 537
447.700	Amended	HB 133	452.230	Amended	HB 537
447.708	Amended	HB 133	452.240	Amended	HB 537
447.721	New	HB 133	452.250	Amended	HB 537
448.03.106	Amended	SB 178	452.556	Amended	SB 267
451.022	Amended	HB 157	453.005	Amended	SB 236
451.040	Amended	HB 157	453.010	Amended	SB 348
451.080	Amended	HB 157	453.070	Amended	SB 348
451.130	Amended	HB 157	453.072	Amended	SB 236
451.250	Amended	HB 537	453.073	Amended	SB 48
451.260	Amended	HB 537	453.080	Amended	SB 348
451.270	Amended	HB 537	453.170	Amended	SB 236
451.280	Repealed	HB 537	453.320	New	SB 236
451.300	Amended	HB 537	453.325	New	SB 236
452.075	Amended	HB 537	455.040	Amended	SB 267

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
456.012	Repealed	HB 241	469.415	New	HB 241
456.013	Repealed	HB 241	469.417	New	HB 241
456.236	New	HB 241	469.419	New	HB 241
456.700	Repealed	HB 241	469.421	New	HB 241
456.710	Repealed	HB 241	469.423	New	HB 241
456.720	Repealed	HB 241	469.425	New	HB 241
456.730	Repealed	HB 241	469.427	New	HB 241
456.740	Repealed	HB 241	469.429	New	HB 241
456.750	Repealed	HB 241	469.431	New	HB 241
456.760	Repealed	HB 241	469.432	New	HB 241
456.770	Repealed	HB 241	469.433	New	HB 241
456.780	Repealed	HB 241	469.435	New	HB 241
456.790	Repealed	HB 241	469.437	New	HB 241
456.800	Repealed	HB 241	469.439	New	HB 241
456.810	Repealed	HB 241	469.441	New	HB 241
456.820	Repealed	HB 241	469.443	New	HB 241
461.073	Amended	HB 644	469.445	New	HB 241
461.073	Amended	SB 227	469.447	New	HB 241
469.401	New	HB 241	469.449	New	HB 241
469.403	New	HB 241	469.451	New	HB 241
469.405	New	HB 241	469.453	New	HB 241
469.409	New	HB 241	469.455	New	HB 241
469.411	New	HB 241	469.457	New	HB 241
469.413	New	HB 241	469.459	New	HB 241

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
469.461	New	HB 241	488.607	Amended	SB 267
469.463	New	HB 241	488.636	New	HB 107
469.465	New	HB 241	488.5332	Amended	SB 267
469.467	New	HB 241	488.5336	Amended	HB 80
474.140	Amended	HB 537	488.5336	Amended	SB 267
475.083	Amended	SB 348	490.130	Amended	SB 267
475.110	Amended	HB 454	491.300	Amended	SB 267
476.010	Amended	SB 267	494.455	Amended	HB 945
476.365	New	SB 267	508.190	Amended	SB 267
476.517	New	SB 371	511.350	Amended	SB 10
476.524	Amended	SB 371	511.360	Amended	SB 10
476.777	New	HB 107	512.180	Amended	SB 267
478.009	New	HB 471	513.430	Amended	HB 738
478.009	New	SB 89	513.430	Amended	SB 186
478.610	Amended	SB 267	513.605	Amended	SB 5
479.020	Amended	SB 267	513.607	Amended	SB 5
479.150	Amended	SB 267	513.647	Amended	SB 5
479.500	Amended	HB 302	513.653	Amended	SB 5
482.330	Amended	SB 267	516.350	Amended	SB 10
483.500	Amended	SB 267	534.070	Amended	SB 267
488.426	Amended	SB 267	535.030	Amended	SB 267
488.429	Amended	HB 945	536.001	Vetoed	SB 270
488.429	Amended	SB 267	536.160	New	SB 267
488.447	Amended	SB 267	537.297	New	HB 471

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
537.297	New	SB 89	577.037	Amended	HB 302
537.353	New	SB 462	577.041	Amended	HB 302
537.675	Amended	HB 107	577.600	Amended	HB 302
537.678	New	HB 107	577.602	Amended	HB 302
537.681	New	HB 107	578.008	New	SB 462
537.684	New	HB 107	578.012	Amended	SB 462
537.687	New	HB 107	578.023	Amended	SB 462
537.690	New	HB 107	578.029	New	SB 462
537.693	New	HB 107	578.154	New	HB 471
544.170	Amended	HB 80	578.154	New	SB 89
547.035	New	SB 267	578.414	New	SB 462
547.037	New	SB 267	578.416	New	SB 462
550.120	Amended	SB 267	578.418	New	SB 462
556.046	Amended	SB 223	578.420	New	SB 462
565.030	Amended	SB 267	590.010	New	HB 80
570.030	Amended	HB 471	590.020	New	HB 80
570.030	Amended	SB 89	590.030	New	HB 80
570.120	Amended	HB 80	590.040	New	HB 80
574.075	Amended	SB 267	590.050	New	HB 80
575.230	Amended	HB 144	590.060	New	HB 80
577.012	Amended	HB 302	590.070	New	HB 80
577.020	Amended	HB 144	590.080	New	HB 80
577.021	Amended	HB 302	590.090	New	HB 80
577.023	Amended	HB 302	590.100	Amended	HB 80

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
590.100	Vetoed	SB 341	595.030	Amended	SB 267
590.101	Repealed	HB 80	595.035	Amended	SB 267
590.105	Repealed	HB 80	595.045	Amended	SB 267
590.110	Amended	HB 80	610.105	Amended	SB 267
590.112	Repealed	HB 80	620.010	Amended	HB 567
590.115	Repealed	HB 80	620.151	New	HB 567
590.117	Repealed	HB 80	620.470	Amended	SB 500
590.120	Amended	HB 80	620.474	Amended	SB 500
590.121	Repealed	HB 80	620.1310	Vetoed	SB 606
590.123	Repealed	HB 80	620.1580	New	HB 453
590.125	Repealed	HB 80	621.053	Amended	HB 693
590.130	Repealed	HB 80	621.055	Amended	HB 693
590.130	Vetoed	SB 341	621.150	New	HB 693
590.131	Repealed	HB 80	621.155	Repealed	HB 693
590.135	Repealed	HB 80	621.165	Repealed	HB 693
590.150	Repealed	HB 80	621.175	Repealed	HB 693
590.170	Repealed	HB 80	621.185	Repealed	HB 693
590.170	Vetoed	SB 341	621.189	Amended	HB 693
590.175	Repealed	HB 80	621.198	Amended	HB 693
590.175	Vetoed	SB 341	630.170	Amended	SB 48
590.180	Amended	HB 80	630.405	Amended	SB 48
590.190	New	HB 80	632.480	Amended	SB 267
590.195	New	HB 80	632.483	Amended	SB 87
590.650	Amended	HB 80	632.483	Amended	SB 267

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
632.486	Amended	SB 87	643.220	New	SB 374
632.492	Amended	SB 267	643.315	Amended	SB 435
632.495	Amended	SB 267	644.027	New	SB 256
640.169	Vetoed	SB 606	644.038	New	HB 453
640.170	Vetoed	SB 606	644.038	New	HB 501
640.172	Vetoed	SB 606	650.300	New	SB 267
640.175	Vetoed	SB 606	650.310	New	SB 267
640.177	Vetoed	SB 606	660.026	New	SB 393
640.179	Vetoed	SB 606	660.050	Amended	HB 603
640.180	Vetoed	SB 606	660.060	New	HB 603
640.182	Vetoed	SB 606	660.062	New	HB 603
640.185	Vetoed	SB 606	700.015	Amended	SB 317
640.195	Vetoed	SB 606	700.025	Amended	SB 317
640.200	Vetoed	SB 606	700.045	Amended	SB 317
640.203	Vetoed	SB 606	700.050	Amended	SB 317
640.205	Vetoed	SB 606	700.090	Amended	SB 317
640.207	Vetoed	SB 606	700.100	Amended	SB 317
640.210	Vetoed	SB 606	701.322	Amended	SB 266
640.212	Vetoed	SB 606	701.326	Amended	SB 266
640.215	Vetoed	SB 606	701.328	Amended	SB 266
640.218	Vetoed	SB 606	701.340	New	SB 266
640.665	Amended	SB 451	701.342	New	SB 266
640.755	Amended	HB 501	701.343	New	SB 266
643.220	New	HB 453	701.344	New	SB 266

2001 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
701.345	New	SB 266	701.348	New	SB 266
701.346	New	SB 266	701.349	New	SB 266

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HB 1 [HB 1]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing and processing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund and Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri for the purpose of funding each Department, Division, agency and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 1.010. — To the Board of Fund Commissioners

For expenses incurred in processing state water pollution control,
stormwater control, third state building, and fourth state building
bonds

Personal Service. \$41,880

Expense and Equipment 2,789

Paying agent and escrow agent fees and related expenses 80,000E

From General Revenue Fund (Not to exceed 1.4 F.T.E.). \$124,669

SECTION 1.020. To the Board of Fund Commissioners

For payment of arbitrage rebate and related expenses

From General Revenue Fund. \$1E

SECTION 1.030. — To the Board of Fund Commissioners

For all expenditures associated with refunding of currently outstanding debt

From General Revenue Fund. \$1E

SECTION 1.035. — There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, Eighteen Million, Seven
Hundred Nine Thousand, Eight Dollars (\$18,709,008) to the Fourth
State Building Bond and Interest Fund for currently outstanding
general obligations

From General Revenue Fund. \$18,709,008

SECTION 1.040. — To the Board of Fund Commissioners

For payment of interest and sinking fund requirements on Fourth State

Building Bonds currently outstanding as provided by law

From Fourth State Building Bond and Interest Fund. \$18,809,771

SECTION 1.045. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Thirty-Four Million, Two Hundred Ninety-Five Thousand, Twenty-Five Dollars (\$34,295,025) to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations
From General Revenue Fund. \$34,295,025

SECTION 1.050. — To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on water pollution control bonds currently outstanding as provided by law
From Water Pollution Control Bond and Interest Fund. \$34,290,294

SECTION 1.055. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Two Million, Five Hundred Seventy-Five Thousand Dollars (\$2,575,000) to the Water Pollution Control Bond and Interest Fund for obligations to be authorized
From General Revenue Fund. \$2,575,000

SECTION 1.065. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Two Million, Three Hundred Fifty-Nine Thousand, Five Hundred Forty-Two Dollars (\$2,359,542) to the Stormwater Control Bond and Interest Fund for currently outstanding general obligations
From General Revenue Fund. \$2,359,542

SECTION 1.070. — To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on stormwater control bonds to be outstanding as provided by law
From Stormwater Control Bond and Interest Fund. \$2,366,282

SECTION 1.072. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Million, Two Hundred Eighty-Eight Thousand, Two Hundred Dollars (\$1,288,200) to the Stormwater Control Bond and Interest Fund for obligations to be authorized
From General Revenue Fund. \$1,288,200

SECTION 1.085. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Fifty Million, Seven Hundred Eleven Thousand, Eight Hundred Thirty-Three Dollars (\$50,711,833) to the Third State Building Bond Interest and Sinking Fund for currently outstanding general obligations
From General Revenue Fund. \$50,711,833

SECTION 1.090. — To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on third state building bonds currently outstanding as provided by law
From Third State Building Bond Interest and Sinking Fund. \$50,548,313

SECTION 1.100. — To the Board of Fund Commissioners

For the cost of issuing stormwater control and water pollution control
bonds

From Stormwater Control Fund.	\$150,000
From Water Pollution Control Fund.	<u>150,000</u>
Total.	\$300,000

SECTION 1.105. — There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Bond and Interest Fund,
Sixty-Four Thousand, Nine Hundred Fifty Dollars (\$64,950) to the
Water Pollution Control Bond and Interest Fund for fund closeout
From Water Pollution Control Bond and Interest Fund. \$64,950E

BILL TOTALS

General Revenue Fund.	\$110,063,279
Federal Funds.	0
Other Funds.	<u>0</u>
Total.	\$110,063,279

Approved June 22, 2001

HB 2 [CCS SCS HCS HB 2]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and of the Department of Elementary and Secondary Education and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds and for the investment in registered bonds of the State Public School Fund by the State Board of Education for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 2.005. — To the Department of Elementary and Secondary Education

For the Division of General Administration

Personal Service.	\$3,406,535
Expense and Equipment	324,757
Personal Service and/or Expense and Equipment.	<u>210,529</u>
From General Revenue Fund.	3,941,821

Personal Service.....	1,546,740
Expense and Equipment ..	1,445,673
Personal Service and/or Expense and Equipment	157,495

For the purpose of funding enhancement to the computer
information system for the Department of Elementary and
Secondary Education

Secondary Education	3,000,000
From Federal Funds	6,149,908

Personal Service.....	211,405
Expense and Equipment ..	2,588,386
Personal Service and/or Expense and Equipment.....	129,419
From Excellence in Education Fund.	2,929,210

Expense and Equipment	
From Lottery Proceeds Fund.	110,880
Total (Not to exceed 131.00 F.T.E.).	\$13,131,819

SECTION 2.007. — To the Department of Elementary and Secondary Education
For E-Government Initiatives

A quarterly report specifying budgeted costs, actual costs, and the
expected return on investment shall be provided to the Chairs of the
Senate Appropriations Committee and the House Budget Committee

From Lottery Proceeds Fund (0 F.T.E.).	\$1,204,896
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SECTION 2.010. — To the Department of Elementary and Secondary Education
For investments in registered federal, state, county, municipal, and school
district bonds as provided by law

From State Public School Fund (0 F.T.E.).	\$10,000,000E
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SECTION 2.015. — To the Department of Elementary and Secondary Education
For construction and site acquisition costs to accommodate any
reasonably anticipated net enrollment increase caused by any
reduction or elimination of the voluntary transfer plan as approved by
the United States Court of the Eastern District of Missouri pursuant to
Senate Bill 781 (1998)

From General Revenue Fund (0 F.T.E.).	\$20,000,000
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SECTION 2.020. — To the Department of Elementary and Secondary Education

For distributions to the free public schools under the School Foundation
Program as provided in Chapter 163, RSMo as follows: At least One
Billion, Six Hundred Ninety-Four Million, Eight Hundred
Thirty-Three Thousand, Seven Hundred Seventy-Six Dollars
(\$1,694,833,776) for the Equity Formula; and no more than: Three
Hundred Forty-Six Million, One Hundred Fifty-Seven Thousand,
Nine Hundred Forty-Five Dollars (\$346,157,945) for the Line 14
At-Risk Program; One Hundred Sixty-Two Million, Sixty-Seven
Thousand, Seven Hundred Thirteen Dollars (\$162,067,713) for
Transportation; One Hundred Forty-Nine Million, Six Hundred
Seventeen Thousand, Nine Hundred Eighty-Two Dollars
(\$149,617,982) for Special Education; Eleven Million, Ninety-Six
Thousand, Nine Hundred Twenty-Five Dollars (\$11,096,925) for

Remedial Reading; Sixty-Three Million, One Hundred Sixty-One Thousand, Ninety-Eight Dollars (\$63,161,098) for Early Childhood Special Education; Twenty-Four Million, Eight Hundred Seventy Thousand, One Hundred Four Dollars (\$24,870,104) for Gifted Education; Thirty-Eight Million, Three Hundred Thirty-Seven Thousand, Seven Hundred Seventy-Four Dollars (\$38,337,774) for Career Ladder; Fifty-Four Million, Six Hundred Twenty-Four Thousand, Five Hundred Twenty-Eight Dollars (\$54,624,528) for Vocational Education; Thirty Million, Three Hundred Four Thousand, Six Hundred Fifty-One Dollars (\$30,304,651) for Early Childhood Development	
From Outstanding Schools Trust Fund	\$540,539,119E
From State School Moneys Fund	1,972,725,417
From Lottery Proceeds Fund	58,707,960
From Early Childhood Development, Education and Care Fund	3,100,000
For State Board of Education operated school programs	
Personal Service.	25,818,829
Expense and Equipment	16,626,734
Personal Service and/or Expense and Equipment.	<u>2,186,607</u>
From General Revenue Fund	44,632,170
Personal Service.	2,046,595
Expense and Equipment	877,107
Personal Service and/or Expense and Equipment.	<u>153,879</u>
From Federal Funds	3,077,581
Expense and Equipment	
From Bingo Proceeds for Education Fund.	<u>1,707,167</u>
Total (Not to exceed 923.72 F.T.E.).	\$2,624,489,414

SECTION 2.025. — To the Department of Elementary and Secondary Education

For professional development programs for educators, and Five Hundred Thousand Dollars (\$500,000) for early grade literacy programs offered at Southeast Missouri State University

From General Revenue Fund	\$105,000
From Federal Funds	50,000
From Lottery Proceeds Fund	145,000
From Outstanding Schools Trust Fund	<u>250,000</u>
Total (0 F.T.E.).	\$550,000

SECTION 2.030. — To the Department of Elementary and Secondary Education

For the School Food Services Program to reimburse schools for breakfasts and lunches

From General Revenue Fund	\$3,484,978
From Federal Funds	<u>133,498,807E</u>
Total (0 F.T.E.).	\$136,983,785

SECTION 2.035. — To the Department of Elementary and Secondary Education

For lease purchases pursuant to Sections 166.131 and 166.300, RSMo pertaining to the School Building Revolving Fund

From School Building Revolving Fund (0 F.T.E.).	\$1,500,000
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SECTION 2.040. — To the Department of Elementary and Secondary Education
For advisors' salaries as provided in Section 169.580, RSMo pertaining to
the Special School Advisors Retirement Supplement Program
From General Revenue Fund (0 F.T.E.). \$1,500

SECTION 2.045. — To the Department of Elementary and Secondary Education
For distributions to the public elementary and secondary schools in this
state, pursuant to Chapters 149 and 163, RSMo pertaining to the Fair
Share Fund
From Fair Share Fund (0 F.T.E.). \$23,835,000E

SECTION 2.050. — To the Department of Elementary and Secondary Education
For distributions to the public elementary and secondary schools in this
state, pursuant to Chapters 144, 163, and 164, RSMo pertaining to the
School District Trust Fund
From School District Trust Fund (0 F.T.E.). \$700,435,389E

SECTION 2.055. — To the Department of Elementary and Secondary Education
For the apportionment to school districts, and state board operated school
programs for expense and equipment, one-half the amount accruing
to the General Revenue Fund from the County Foreign Insurance Tax
From General Revenue Fund (0 F.T.E.). \$75,724,700E

SECTION 2.060. — To the Department of Elementary and Secondary Education
For costs associated with school district bonds
From School District Bond Fund (0 F.T.E.). \$7,000,000

SECTION 2.065. — To the Department of Elementary and Secondary Education
For receiving and expending donations and federal funds provided that the
General Assembly shall be notified of the source of any new funds
and the purpose for which they shall be expended, in writing, prior to
the expenditure of said funds
From Federal Funds and Other Funds (0 F.T.E.). \$15,000,000

SECTION 2.070. — To the Department of Elementary and Secondary Education
For the Division of Vocational and Adult Education
For the purpose of funding the maintenance of effort requirement
From General Revenue Fund (0 F.T.E.). \$200,000

SECTION 2.071. — To the Department of Elementary and Secondary Education
For the Division of Instruction
Personal Service. \$1,289,987
Expense and Equipment 37,514
Personal Service and/or Expense and Equipment. 76,934
From General Revenue Fund 1,404,435

Personal Service. 1,581,878
Expense and Equipment 894,058
Personal Service and Expense and/or Equipment. 122,936
From Federal Funds 2,598,872

Personal Service.	161,138
Expense and Equipment	60,262
Personal Service and Expense and/or Equipment.	<u>11,608</u>
From Outstanding Schools Trust Fund.	233,008

Personal Service.	68,185
Expense and Equipment	61,469
Personal Service and Expense and/or Equipment.	<u>6,551</u>
From Video Instructional Development and Educational Opportunity Fund.	<u>136,205</u>
Total (Not to exceed 83.00 F.T.E.).	\$4,372,520

SECTION 2.072. — To the Department of Elementary and Secondary Education

For the Division of Vocational Education

Personal Service.	\$1,167,614
Expense and Equipment	382,981
Personal Service and Expense and/or Equipment.	<u>80,066</u>
From General Revenue Fund.	1,630,661

Personal Service.	1,810,860
Expense and Equipment	969,112
Personal Service and Expense and/or Equipment.	<u>135,906</u>
From Federal Funds.	<u>2,915,878</u>
Total (Not to exceed 88.00 F.T.E.).	\$4,546,539

SECTION 2.073. — To the Department of Elementary and Secondary Education

For the Division of Special Education

Personal Service.	\$235,309
Expense and Equipment	102,856
Personal Service and/or Expense and Equipment.	<u>17,523</u>
From General Revenue Fund.	355,688

Personal Service.	1,501,919
Expense and Equipment	918,228
Personal Service and/or Expense and Equipment.	<u>121,851</u>
From Federal Funds	<u>2,541,998</u>
Total (Not to exceed 47.50 F.T.E.).	\$2,897,686

SECTION 2.074. — To the Department of Elementary and Secondary Education

For the Division of Urban and Teacher Education

Personal Service.	\$1,218,270
Expense and Equipment	142,407
Personal Service and/or Expense and Equipment.	<u>71,196</u>
From General Revenue	1,431,873

Personal Service.	117,457
Expense and Equipment	243,523
Personal Service and/or Expense and Equipment.	<u>18,964</u>
From Federal Funds	379,944

Personal Service.	72,120
Expense and Equipment	4,229
Personal Service and/or Expense and Equipment.	<u>3,996</u>

From Outstanding Schools Trust Fund. 80,345
 Total (Not to exceed 43.00 F.T.E.). \$1,892,162

SECTION 2.075. — To the Department of Elementary and Secondary Education
 For improving services to Missouri children through activities under the
 Goals 2000: Educate America Act
 From Federal Funds (0 F.T.E.). \$9,271,015

SECTION 2.080. — To the Department of Elementary and Secondary Education
 For the Video Instructional Development and Educational Opportunity
 Program pursuant to Chapter 170, RSMo
 From Video Instructional Development and Educational Opportunity
 Fund (0 F.T.E.). \$1,089,519

SECTION 2.085. — To the Department of Elementary and Secondary Education
 For the New Technology Grants Program pursuant to the Outstanding
 Schools Act and for planning and implementing computer network
 infrastructure for public elementary and secondary schools in this state,
 including computer access to the Department of Elementary and
 Secondary Education and to improve the use of classroom technology
 From General Revenue Fund \$12,631,250
 From Federal Funds 7,900,000
 From Lottery Proceeds Fund. 7,000,000
 Total (0 F.T.E.). \$27,531,250

SECTION 2.090. — To the Department of Elementary and Secondary Education
 For improving basic programs operated by local education agencies under
 Title I of the Improving America's Schools Act
 From Federal Funds (0 F.T.E.). \$190,000,000

SECTION 2.095. — To the Department of Elementary and Secondary Education
 For innovative educational program strategies under Title VI of the
 Improving America's Schools Act
 From Federal Funds (0 F.T.E.). \$41,900,000

SECTION 2.100. — To the Department of Elementary and Secondary Education
 For programs for the gifted from interest earnings accruing in the Stephen
 Morgan Ferman Memorial for Education of the Gifted
 From State School Moneys Fund (0 F.T.E.). \$10,000E

SECTION 2.105. — To the Department of Elementary and Secondary Education
 For the Missouri Scholars and Fine Arts Academies
 From General Revenue Fund \$631,319
 From Lottery Proceeds Fund. 158,156
 Total (0 F.T.E.). \$789,475

SECTION 2.110. — To the Department of Elementary and Secondary Education
 For the Middle School Leadership Academy Program
 From General Revenue Fund (0 F.T.E.). \$10,000

SECTION 2.115. — To the Department of Elementary and Secondary Education

For the High School Science, Mathematics, and Technology Institute,
offered through the University of Missouri at Kansas City College of
Arts and Sciences, and that 25 percent of the appropriated funds be
expended for minority children

From General Revenue Fund (0 F.T.E.). \$100,000

***SECTION 2.116.** — To the Department of Elementary and Secondary Education
For the purpose of funding a 50 percent match for funds provided to the
University of Missouri-Columbia by the National Geographic Society
to improve geography curriculum and teaching methods

From General Revenue Fund (0 F.T.E.). \$50,000

*I hereby veto \$50,000 general revenue for geography curriculum and teaching methods. A
weak national economy is expected to depress revenue collections below original estimates for
Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$50,000 from \$50,000 to \$0 in total from General
Revenue Fund.

From \$50,000 to \$0 in total for the section.

BOB HOLDEN, Governor

SECTION 2.120. — To the Department of Elementary and Secondary Education
For reimbursements to school districts for the Early Childhood Program,
Hard-to-Reach Incentives, and Parent Education in conjunction with
the Early Childhood Educational and Screening Program

From General Revenue Fund \$86,118

From Federal Funds 824,000

From State School Moneys Fund 125,000

For grants to higher education institutions or area vocational technical
schools for the Child Development Associate Certificate Program in
collaboration with the Coordinating Board for Higher Education

From Federal Funds 300,000

For grants to school districts under the Early Childhood Development,
Education and Care Program, including up to \$25,000 in expense and
equipment for program administration

From Early Childhood Development, Education and Care Fund 15,136,800

Total (0 F.T.E.). \$16,471,918

SECTION 2.125. — To the Department of Elementary and Secondary Education
For the A+ Schools Program

From General Revenue Fund \$15,486,620

From Lottery Proceeds Fund. 3,813,380

Total (0 F.T.E.). \$19,300,000

SECTION 2.130. — To the Department of Elementary and Secondary Education
For the Pupil Testing Program

From General Revenue Fund \$11,814,611

From Outstanding Schools Trust Fund 128,125

From Lottery Proceeds Fund. 874,321

Total (0 F.T.E.). \$12,817,057

SECTION 2.135. — To the Department of Elementary and Secondary Education
For courses, exams, and other expenses that lead to high school students
receiving college credit

From General Revenue Fund	\$563,524
From Lottery Proceeds Fund.	860,048
Total (0 F.T.E.).	\$1,423,572

SECTION 2.140. — To the Department of Elementary and Secondary Education
For school renovation grants

From Federal Funds (0 F.T.E.).	\$14,252,588E
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SECTION 2.145. — To the Department of Elementary and Secondary Education
For the Instructional Improvement Grants Program pursuant to Title II of
the Dwight D. Eisenhower Professional Development Program

From Federal Funds (0 F.T.E.).	\$26,000,000
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SECTION 2.150. — To the Department of Elementary and Secondary Education
For the Safe and Drug Free Schools Grants Program pursuant to Title IV
of the Improving America's Schools Act

From Federal Funds (0 F.T.E.).	\$9,600,000
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SECTION 2.155. — To the Department of Elementary and Secondary Education
For a safe schools initiative to include, but not be limited to, safe school
grants, alternative education program grants, equipment, anti-violence
curriculum development, and conflict resolution

From General Revenue Fund	\$5,300,000
From Lottery Proceeds Fund.	5,050,000
Total (0 F.T.E.).	\$10,350,000

***SECTION 2.160.** — To the Department of Elementary and Secondary Education
For the Public Charter Schools Program

From General Revenue Fund	\$580,000
From Federal Funds.	2,432,000
Total (0 F.T.E.).	\$3,012,000

*I hereby veto \$400,000 general revenue for charter school sponsors. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the public charter schools program by \$400,000 from \$580,000 to \$180,000 from General Revenue Fund.

From \$3,012,000 to \$2,612,000 in total for the section.

BOB HOLDEN, Governor

SECTION 2.165. — To the Department of Elementary and Secondary Education
For the state's portion of the scholarship program for teacher education
students in approved programs at four-year colleges or universities in
Missouri pursuant to the Excellence in Education Act

From General Revenue Fund (0 F.T.E.).	\$249,000
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For the state's portion for scholarships for minority students pursuant to
Section 161.415, RSMo

From Lottery Proceeds Fund.	200,000
Total (0 F.T.E.).	\$449,000

SECTION 2.170. — To the Department of Elementary and Secondary Education
For the Caring Communities Program

From General Revenue Fund	\$1,287,100
From Federal Funds.	1,158,333
Total (0 F.T.E.).	\$2,445,433

SECTION 2.175. — To the Department of Elementary and Secondary Education
For grants to schools for reading assessment and early grade intervention
strategies

From Lottery Proceeds Fund (0 F.T.E.).	\$6,700,000
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SECTION 2.180. — To the Department of Elementary and Secondary Education
For grants to public schools for whole-school, research-based reform
programs

From Federal Funds (0 F.T.E.).	\$3,750,000
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SECTION 2.185. — To the Department of Elementary and Secondary Education
For Advanced Placement examination fees for eligible children of
low-income families

From Federal Funds (0 F.T.E.).	\$286,250
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SECTION 2.190. — To the Department of Elementary and Secondary Education
For the Refugee Children School Impact Grants Program

From Federal Funds (0 F.T.E.).	\$400,000
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SECTION 2.195. — To the Department of Elementary and Secondary Education
For character education initiatives

From Lottery Proceeds Fund (0 F.T.E.).	\$994,998
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SECTION 2.200. — To the Department of Elementary and Secondary Education
For the National Board Certification Program

From General Revenue Fund (0 F.T.E.).	\$97,500
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***SECTION 2.201.** — To the Department of Elementary and Secondary Education
For the purpose of funding the Missouri Teacher Shortage Loan Program

From General Revenue Fund (0 F.T.E.).	\$500,000
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*I hereby veto \$500,000 general revenue for the Missouri Teacher Shortage Loan Program. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$500,000 from \$500,000 to \$0 in total from General Revenue Fund.

From \$500,000 to \$0 in total for the section.

BOB HOLDEN, Governor

SECTION 2.205. — To the Department of Elementary and Secondary Education
For the Division of Vocational Rehabilitation

Personal Service.	\$163,971
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Expense and Equipment.	25,268
Personal Service and/or Expense and Equipment.	<u>9,960</u>
From General Revenue Fund	199,199

Personal Service.	22,535,015
Expense and Equipment	4,558,237
Personal Service and/or Expense and Equipment.	<u>1,429,200</u>
From Federal Funds.	<u>28,522,452</u>
Total (Not to exceed 701.00 F.T.E.).	\$28,721,651

SECTION 2.210. — To the Department of Elementary and Secondary Education
For the Vocational Rehabilitation Program

From General Revenue Fund	\$9,903,170
From Federal Funds	30,256,700
From Payments by the Department of Mental Health	1,000,000
From Lottery Proceeds Fund.	<u>1,400,000</u>
Total (0 F.T.E.).	\$42,559,870

SECTION 2.215. — To the Department of Elementary and Secondary Education
For the Independent Living Program

From General Revenue Fund	\$33,225
From Federal Funds.	<u>231,913</u>
Total (0 F.T.E.).	\$265,138

SECTION 2.220. — To the Department of Elementary and Secondary Education
For the Disability Determination Program

From Federal Funds (0 F.T.E.).	\$18,000,000
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SECTION 2.225. — To the Department of Elementary and Secondary Education
For the Personal Care Assistance Program

From General Revenue Fund	\$21,398,455
From Federal Funds	<u>25,600,999E</u>
Total (0 F.T.E.).	\$46,999,454

SECTION 2.230. — To the Department of Elementary and Secondary Education
For Independent Living Centers

From General Revenue Fund	\$2,785,991
From Federal Funds	1,360,633
From Independent Living Center Fund	<u>210,000</u>
Total (0 F.T.E.).	\$4,356,624

SECTION 2.235. — To the Department of Elementary and Secondary Education
For distributions to providers of Vocational Education programs

From Federal Funds.	\$32,064,693
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SECTION 2.240. — To the Department of Elementary and Secondary Education
For job training programs pursuant to the Workforce Investment Act

From Federal Funds (0 F.T.E.).	\$6,797,937E
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SECTION 2.245. — To the Department of Elementary and Secondary Education
For distributions to educational institutions for the Adult Basic Education
Program

From General Revenue Fund	\$4,279,293
From Federal Funds	12,500,000
From Outstanding Schools Trust Fund	<u>525,313</u>
Total (0 F.T.E.).	\$17,304,606

SECTION 2.250. — To the Department of Elementary and Secondary Education
For a grant award program for literacy and family literacy providers that
offer services that are complementary to adult basic education

From General Revenue Fund (0 F.T.E.).	\$1,184,991
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SECTION 2.255. — To the Department of Elementary and Secondary Education
For the School Age Child Care Program

From General Revenue Fund	\$275,000
From Federal Funds	<u>1,700,000</u>
Total (0 F.T.E.).	\$1,975,000

SECTION 2.260. — To the Department of Elementary and Secondary Education
For the Troops to Teachers Program

From Federal Funds (0 F.T.E.).	\$100,000
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SECTION 2.265. — To the Department of Elementary and Secondary Education
For design, renovation, construction, and improvements of vocational
education facilities at Cape Girardeau. Local matching funds must be
provided on a 50/50 state/local match rate in order to be eligible for
state funds

From General Revenue Fund (0 F.T.E.).	\$832,267
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SECTION 2.270. — To the Department of Elementary and Secondary Education
For the Special Education Program

From Federal Funds (0 F.T.E.).	\$139,262,289E
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SECTION 2.275. — To the Department of Elementary and Secondary Education
For special education excess costs and severe disabilities services

From General Revenue Fund	\$1,124,512
From Federal Funds	4,257,267E
From Lottery Proceeds Fund.	<u>175,488</u>
Total (0 F.T.E.).	\$5,557,267

SECTION 2.280. — To the Department of Elementary and Secondary Education
For the First Steps Program

Provided that First Steps service options shall include but not be
limited to center-based programs

From General Revenue Fund	\$2,267,839
From Federal Funds	7,506,837
From Early Childhood Development, Education and Care Fund	<u>3,886,042</u>
Total (0 F.T.E.).	\$13,660,718

SECTION 2.285. — To the Department of Elementary and Secondary Education
For payments to school districts for children in residential placements
through the Department of Mental Health or the Division of Family
Services pursuant to Section 167.126, RSMo

From General Revenue Fund (0 F.T.E.).	\$5,259,396
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SECTION 2.290. — To the Department of Elementary and Secondary Education
For operational maintenance and repairs for State Board of Education
operated schools

From Facilities Maintenance Reserve Fund.	\$57,950
From Lottery Proceeds Fund.	<u>370,000</u>
Total (0 F.T.E.).	\$427,950

SECTION 2.295. — To the Department of Elementary and Secondary Education
For the Missouri Special Olympics Program

From General Revenue Fund (0 F.T.E.).	\$100,000
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SECTION 2.300. — To the Department of Elementary and Secondary Education
For the Sheltered Workshop Program

From General Revenue Fund (0 F.T.E.).	\$19,521,734
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SECTION 2.305. — To the Department of Elementary and Secondary Education
For payments to readers for blind or visually handicapped students in
elementary and secondary schools

From General Revenue Fund	\$14,000
From State School Moneys Fund	<u>25,000</u>
Total (0 F.T.E.).	\$39,000

***SECTION 2.310.** — To the Department of Elementary and Secondary Education

For a task force on blind student academic and vocational performance

From General Revenue Fund (0 F.T.E.).	\$245,000
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*I hereby veto \$150,000 general revenue for blind skills specialists. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources. It may be possible to consider redirecting currently appropriated professional development funds in the Department of Elementary and Secondary Education to provide these services. Also, the Missouri School for the Blind will continue providing assistance to school districts and parents of children who are blind.

For a task force on blind student academic and vocational performance by \$150,000 from \$245,000 to \$95,000 from General Revenue Fund.

From \$245,000 to \$95,000 in total for the section.

BOB HOLDEN, Governor

SECTION 2.315. — To the Department of Elementary and Secondary Education
For the Missouri School for the Deaf

From School for the Deaf Trust Fund (0 F.T.E.).	\$25,000E
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SECTION 2.320. — To the Department of Elementary and Secondary Education
For the Missouri School for the Blind

From School for the Blind Trust Fund (0 F.T.E.).	\$1,500,000E
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SECTION 2.325. — To the Department of Elementary and Secondary Education
For the State Schools for Severely Handicapped Children

From Handicapped Children's Trust Fund (0 F.T.E.).	\$30,000E
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SECTION 2.330. — To the Department of Elementary and Secondary Education

For the State Occupational Information Coordinating Committee

Personal Service	\$130,500
Expense and Equipment.....	<u>15,006</u>
From General Revenue Fund	145,506

Expense and Equipment	
From Federal Funds and Other Funds	<u>140,010</u>
Total (Not to exceed 3.00 F.T.E.).....	\$285,516

SECTION 2.335. — To the Department of Elementary and Secondary Education

For the Missouri Commission for the Deaf

Personal Service.	\$234,192
Expense and Equipment.....	<u>120,851</u>
From General Revenue Fund	\$355,043

Expense and Equipment	
From Federal Funds	50,000
From Certification of Interpreters Fund	<u>87,000</u>
Total (Not to exceed 7.00 F.T.E.).....	\$492,043

SECTION 2.340. — To the Department of Elementary and Secondary Education

There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Billion, Seven Hundred Twenty-Nine Million, Sixty-Three Thousand, Nine Hundred Fourteen Dollars (\$1,729,063,914) to the State School Moneys Fund

From General Revenue Fund	\$1,729,063,914
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SECTION 2.345. — To the Department of Elementary and Secondary Education

There is transferred out of the State Treasury, chargeable to the Gaming Proceeds for Education Fund, One Hundred Eighty-Six Million, Seven Hundred Fifty-One Thousand Dollars (\$186,751,000) to the State School Moneys Fund

From Gaming Proceeds for Education Fund	\$186,751,000E
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SECTION 2.350. — To the Department of Elementary and Secondary Education

There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Million, Two Hundred Fifty-Three Thousand, Two Hundred Twenty-Four Dollars (\$1,253,224) to the Video Instructional Development and Educational Opportunity Fund

From General Revenue Fund	\$1,253,224
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SECTION 2.355. — To the Department of Elementary and Secondary Education

There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Four Hundred Fifty-One Million, Three Hundred Thousand Dollars (\$451,300,000) to the Outstanding Schools Trust Fund

From General Revenue Fund	\$451,300,000E
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SECTION 2.360. — To the Department of Elementary and Secondary Education

There is transferred out of the State Treasury, chargeable to the Gaming Proceeds for Education Fund, Seven Million Dollars (\$7,000,000) to the School District Bond Fund

From Gaming Proceeds for Education Fund \$7,000,000

Bill Totals

General Revenue Fund.	\$2,453,841,627
Federal Funds.	783,638,904
Other Funds.	<u>1,192,834,148</u>
Total.	\$4,430,314,679

Approved June 22, 2001

HB 3 [CCS SCS HCS HB 3]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education and the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 3.005. — To the Department of Higher Education

For Higher Education Coordination

Personal Service	\$1,026,203
Expense and Equipment.	<u>275,890</u>
From General Revenue Fund (Not to exceed 21.00 F.T.E.)	\$1,302,093

SECTION 3.010. — To the Department of Higher Education

For regulation of proprietary schools as provided in Section 173.600,

RSMo

Personal Service	\$163,899
Expense and Equipment.	<u>61,029</u>
From General Revenue Fund (Not to exceed 4.00 F.T.E.)	\$224,928

SECTION 3.015. — To the Department of Higher Education

For indemnifying individuals as a result of improper actions on the part of
proprietary schools as provided in Section 173.612, RSMo

From Proprietary School Bond Fund (0 F.T.E.)	\$100,000
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SECTION 3.020. — To the Department of Higher Education

For annual membership in the Midwestern Higher Education Commission
From General Revenue Fund (0 F.T.E.). \$82,500

SECTION 3.025. — To the Department of Higher Education
For the Missouri Learners' Network
From General Revenue Fund (0 F.T.E.). \$50,000

SECTION 3.030. — To the Department of Higher Education
For contracts with public universities and reciprocal agreements with other
states as provided in Section 173.051, RSMo
From General Revenue Fund (0 F.T.E.). \$250,000

SECTION 3.035. — To the Department of Higher Education
For the Missouri Bibliographic and Information User System
From General Revenue Fund (0 F.T.E.). \$649,539

SECTION 3.040. — To the Department of Higher Education
For the State Anatomical Board
From General Revenue Fund (0 F.T.E.). \$3,069

SECTION 3.045. — To the Department of Higher Education
For the Eisenhower Science and Mathematics Program
Personal Service \$56,825
Expense and Equipment 20,400
Federal Education Programs 1,698,000

For statewide initiatives including the GEAR-UP program
Personal Service 277,770
Expense and Equipment 54,480
Federal Education Programs 1,197,572
From Federal Funds (Not to exceed 8.50 F.T.E.). \$3,305,047

SECTION 3.050. — To the Department of Higher Education
For MOSTARS grant and scholarship program administration
Personal Service \$256,513
Expense and Equipment 160,694
From General Revenue Fund (Not to exceed 6.00 F.T.E.). \$417,207

SECTION 3.055. — To the Department of Higher Education
There is transferred out of the state treasury, chargeable to the General
Revenue Fund, fifteen million, seven hundred eighty-seven thousand
dollars to the Academic Scholarship Fund
From General Revenue Fund (0 F.T.E.). \$15,787,000

SECTION 3.060. — To the Department of Higher Education
For the Higher Education Academic Scholarship Program pursuant to
Chapter 173, RSMo
From Academic Scholarship Fund (0 F.T.E.). \$15,787,000E

SECTION 3.065. — To the Department of Higher Education
There is transferred out of the state treasury, chargeable to the funds listed
below, to the Student Grant Fund

From General Revenue Fund	\$16,403,436
From Federal Funds	1,000,000
From Missouri Student Grant Program Gift Fund	50,000
Total (0 F.T.E.).	\$17,453,436

SECTION 3.070. — To the Department of Higher Education
 For the Charles E. Gallagher Grants (Student Grants) Program pursuant to
 Chapter 173, RSMo
 From Student Grant Fund (0 F.T.E.). \$17,453,436E

SECTION 3.075. — To the Department of Higher Education
 There is transferred out of the state treasury, chargeable to the General
 Revenue Fund, one million, nine hundred twenty-five thousand dollars
 to the Missouri College Guarantee Fund
 From General Revenue Fund (0 F.T.E.). \$1,925,000

SECTION 3.080. — To the Department of Higher Education
 For the Missouri College Guarantee Program pursuant to Chapter 173,
 RSMo
 From Missouri College Guarantee Fund (0 F.T.E.). \$10,385,000

SECTION 3.085. — To the Department of Higher Education
 There is transferred out of the state treasury, chargeable to the General
 Revenue Fund, two million, one hundred eighty-five thousand dollars
 (\$2,185,000) to the Advantage Missouri Trust Fund
 From General Revenue Fund. \$2,185,000

SECTION 3.090. — To the Department of Higher Education
 For the Advantage Missouri Program pursuant to Chapter 173, RSMo
 From Advantage Missouri Trust Fund. \$2,185,000E

SECTION 3.095. — To the Department of Higher Education
 For the Public Service Officer or Employee Survivor Grant Program
 pursuant to Section 173.260, RSMo
 From General Revenue Fund (0 F.T.E.). \$45,000

SECTION 3.100. — To the Department of Higher Education
 For the Vietnam Veterans Survivors Scholarship Program pursuant to
 Section 173.235, RSMo
 From General Revenue Fund (0 F.T.E.). \$15,000

SECTION 3.105. — To the Department of Higher Education
 There is transferred out of the state treasury, chargeable to the General
 Revenue Fund, five hundred fifty thousand dollars to the Marguerite
 Ross Barnett Scholarship Fund
 From General Revenue Fund (0 F.T.E.). \$550,000

SECTION 3.110. — To the Department of Higher Education
 For the Marguerite Ross Barnett Scholarship Program pursuant to Section
 173.262, RSMo
 From Marguerite Ross Barnett Scholarship Fund (0 F.T.E.). \$550,000E

SECTION 3.115. — To the Department of Higher Education

There is transferred out of the state treasury, chargeable to the Federal Student Loan Reserve Fund, six million, four hundred eighty-four thousand, three hundred thirty-four dollars to the U.S. Department of Education/Coordinating Board for Higher Education P.L. 105-33 recall account

From Federal Student Loan Reserve Fund (0 F.T.E.). \$6,484,334E

SECTION 3.120. — To the Department of Higher Education

For the Missouri Guaranteed Student Loan Program

Expense and Equipment

From General Revenue Fund \$5,720

Personal Service. 1,859,601

Expense and Equipment 8,155,606

For Collection Agency invoicing. 4,000,000E

For 48-rule reimbursement penalties. 1,000,000

From Guaranty Agency Operating Fund 15,015,207

Personal Service 87,920

Expense and Equipment 2,612,500E

From U.S. Department of Education/Coordinating Board for

Higher Education P.L. 105-33 interest account. 2,700,420

Total (Not to exceed 51.33 F.T.E.). \$17,721,347

SECTION 3.121. — To the Department of Higher Education

For the E-Government Initiative

A quarterly report specifying budgeted costs, actual costs, and the expected return on investment shall be provided to the Chairs of the Senate Appropriations Committee and the House Budget Committee

Personal Service. \$371,000

Expense and Equipment. 1,023,400

From Guaranty Agency Operating Fund (Not to exceed 6.00 F.T.E.). \$1,394,400

SECTION 3.125. — To the Department of Higher Education

There is transferred out of the state treasury, chargeable to the Federal Student Loan Reserve Fund, eight million dollars to the Guaranty Agency Operating Fund

From Federal Student Loan Reserve Fund (0 F.T.E.). \$8,000,000E

SECTION 3.130. — To the Department of Higher Education

For the purchase of defaulted loans, payment of default aversion fees, reimbursement to the federal government, and investment of funds in the Federal Student Loan Reserve Fund

From Federal Student Loan Reserve Fund (0 F.T.E.). \$70,000,000

SECTION 3.135. — To the Department of Higher Education

For the payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund (0 F.T.E.). \$750,000E

SECTION 3.140. — To the Department of Higher Education

There is transferred out of the state treasury, chargeable to the Guaranty Agency Operating Fund, two million, one dollars to the Federal Student Loan Reserve Fund
 From Guaranty Agency Operating Fund (0 F.T.E.) \$2,000,001E

***SECTION 3.145.** — To the Department of Higher Education

For distribution to community colleges as provided in Section 163.191, RSMo

From General Revenue Fund \$99,806,594
 From Lottery Proceeds Fund 4,849,155

For Jim Sears Center in Edina
 From General Revenue Fund. 79,300

For community college development centers
 From General Revenue Fund. 300,000

For selected out-of-district courses
 From General Revenue Fund 1,430,566

For workforce preparation projects
 From General Revenue Fund 18,340,720
 From Lottery Proceeds Fund 1,480,392

For program improvements in workforce preparation with the emphasis to provide education and training at community colleges for unemployed and under-employed citizens
 From General Revenue Fund 2,000,000

For Regional Technical Education Initiatives
 From General Revenue Fund 24,925,000
 Total (0 F.T.E.) \$153,211,727

*I hereby veto \$1,049,968 general revenue for inflationary adjustments for community colleges. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For distribution to community colleges by \$1,049,968 from \$99,806,594 to \$98,756,626 General Revenue Fund.
 From \$153,211,727 to \$152,161,759 in total for the section.

BOB HOLDEN, Governor

SECTION 3.150. — To the Department of Higher Education

For community colleges

For the payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund (0 F.T.E.) \$250,000E

***SECTION 3.155.** — To Linn State Technical College

All Expenditures	
From General Revenue Fund	\$5,233,060
For the payment of refunds set off against debt as required by Section	
143.786, RSMo	
From Debt Offset Escrow Fund	30,000E
Total	\$5,263,060

*I hereby veto \$22,532 general revenue for inflationary adjustments for Linn State Technical College. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$22,532 from \$5,233,060 to \$5,210,528 General Revenue Fund.
From \$5,263,060 to \$5,240,528 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.160.** — To Central Missouri State University

All Expenditures	
From General Revenue Fund	\$56,188,016
From Lottery Proceeds Fund	5,844,752

For the payment of refunds set off against debt as required by Section	
143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$62,107,768

*I hereby veto \$182,547 general revenue for inflationary adjustments for Central Missouri State University. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$75,000 general revenue for the motorcycle safety program at Central Missouri State University. This program was originally cut from the Department of Public Safety budget. A portion of the funding has been restored in the Central Missouri State University budget. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$257,547 from \$56,188,016 to \$55,930,469 General Revenue Fund.
From \$62,107,768 to \$61,850,221 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.165.** — To Southeast Missouri State University

All Expenditures	
From General Revenue Fund	\$45,393,536
From Lottery Proceeds Fund	5,167,374

For the payment of refunds set off against debt as required by Section
143.786, RSMo

From Debt Offset Escrow Fund.	75,000E
Total (0 F.T.E.)	\$50,635,910

*I hereby veto \$138,011 general revenue for inflationary adjustments for Southeast Missouri State University. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$119,000 general revenue for wildlife specialists at Southeast Missouri State University. In order to obtain statewide dissemination and implementation, specialists of this nature would be better situated in the Missouri Department of Agriculture where statewide programs could be developed. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$257,011 from \$45,393,536 to \$45,136,525 General Revenue Fund.
From \$50,635,910 to \$50,378,899 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.170.** — To Southwest Missouri State University

All Expenditures

From General Revenue Fund	\$79,907,855
From Lottery Proceeds Fund	9,560,091

For the payment of refunds set off against debt as required by Section
143.786, RSMo

From Debt Offset Escrow Fund.	75,000E
Total	\$89,542,946

*I hereby veto \$251,695 general revenue for inflationary adjustments for Southwest Missouri State University. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$251,695 from \$79,907,855 to \$79,656,160 General Revenue Fund.
From \$89,542,946 to \$89,291,251 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.175.** — To Lincoln University

All Expenditures

From General Revenue Fund	\$17,332,387
From Lottery Proceeds Fund	1,935,218

For the purpose of funding the Missouri Teacher Academy

From General Revenue Fund.	100,000
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For the purpose of matching Title III Endowment Funds
 From General Revenue Fund..... 400,000

For the payment of refunds set off against debt as required by Section
 143.786, RSMo
 From Debt Offset Escrow Fund..... 75,000E
 Total \$19,842,605

*I hereby veto \$47,488 general revenue for inflationary adjustments for Lincoln University. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$100,000 general revenue for the Missouri Teacher Academy at Lincoln University. This new program was neither requested by the institution nor recommended by the Coordinating Board for Higher Education, and was not part of my budget recommendations. Such review is essential to ensure that state resources are allocated in the most cost-effective manner. In addition, this ongoing program was funded with moneys available on a one-time basis. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$47,488 from \$17,332,387 to \$17,284,899 General Revenue Fund.
 For the Missouri Teacher Academy by \$100,000 from \$100,000 to \$0 General Revenue Fund.
 From \$19,842,605 to \$19,695,117 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.180. — To Truman State University**

All Expenditures
 From General Revenue Fund \$42,628,054
 From Lottery Proceeds Fund 4,261,978

For the payment of refunds set off against debt as required by Section
 143.786, RSMo
 From Debt Offset Escrow Fund..... 75,000E
 Total \$46,965,032

*I hereby veto \$102,372 general revenue for inflationary adjustments for Truman State University. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$102,372 from \$42,628,054 to \$42,525,682 General Revenue Fund.
 From \$46,965,032 to \$46,862,660 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.185. — To Northwest Missouri State University**

All Expenditures

From General Revenue Fund \$29,265,673
 From Lottery Proceeds Fund 3,041,213

For the payment of refunds set off against debt as required by Section
 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E
 Total \$32,381,886

*I hereby veto \$94,149 general revenue for inflationary adjustments for Northwest Missouri State University. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$94,149 from \$29,265,673 to \$29,171,524 General Revenue Fund.
 From \$32,381,886 to \$32,287,737 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.190.** — To Missouri Southern State College

All Expenditures

From General Revenue Fund \$19,328,665
 From Lottery Proceeds Fund 2,170,634

For the payment of refunds set off against debt as required by Section
 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E
 Total \$21,574,299

*I hereby veto \$102,798 general revenue for inflationary adjustments for Missouri Southern State College. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$50,000 general revenue for a multicultural website at Missouri Southern State College. This item was funded as a one-time appropriation in Fiscal Year 2001 and was not recommended by the Coordinating Board for Higher Education or the Governor for Fiscal Year 2002. Such review is essential to ensure that state resources are allocated in the most cost-effective manner. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$152,798 from \$19,328,665 to \$19,175,867 General Revenue Fund.
 From \$21,574,299 to \$21,421,501 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.195.** — To Missouri Western State College

All Expenditures

From General Revenue Fund \$19,827,355
 From Lottery Proceeds Fund 2,168,608

For the payment of refunds set off against debt as required by Section
143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	\$22,070,963

*I hereby veto \$89,174 general revenue for inflationary adjustments for Missouri Western State College. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$89,174 from \$19,827,355 to \$19,738,181 General Revenue Fund.
From \$22,070,963 to \$21,981,789 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.200.** — To Harris-Stowe State College

All Expenditures	
From General Revenue Fund	\$10,459,080
From Lottery Proceeds Fund	823,005

For the payment of refunds set off against debt as required by Section
143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	\$11,357,085

*I hereby veto \$22,836 general revenue for inflationary adjustments for Harris-Stowe State College. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$22,836 from \$10,459,080 to \$10,436,244 General Revenue Fund.
From \$11,357,085 to \$11,334,249 in total for the section.

BOB HOLDEN, Governor

***SECTION 3.205.** — To the University of Missouri

For operation of its various campuses and programs

All Expenditures	
From General Revenue Fund	\$419,603,730
From Lottery Proceeds Fund	38,208,043

For Disabled Sports Recreation

From General Revenue Fund	250,000
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For the payment of refunds set off against debt as required by Section
143.786, RSMo

From Debt Offset Escrow Fund	200,000E
Total	\$458,261,773

*I hereby veto \$783,930 general revenue for inflationary adjustments for the University of Missouri. Inflationary adjustments for public higher education institutions were provided from moneys available on a one-time basis. The uncertainty of revenues for Fiscal Year 2003 argues against use of this fund source for an ongoing item. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$175,000 general revenue for an education and labor market analysis of St. Louis at the University of Missouri - St. Louis. The study is duplicative of other state programs currently in operation. Also, when this study was originally funded in Fiscal Year 2001 it was neither requested by the institution nor recommended by the Coordinating Board for Higher Education, and was not part of the Governor's recommendation. Such review is essential to ensure that state resources are allocated in the most cost-effective manner. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$50,000 general revenue for a disability sports and recreation program at the University of Missouri - Columbia. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

All expenditures by \$958,930 from \$419,603,730 to \$418,644,800 General Revenue Fund.
For disabled sports recreation by \$50,000 from \$250,000 to \$200,000 General Revenue Fund.
From \$458,261,773 to \$457,252,843 in total for the section.

BOB HOLDEN, Governor

SECTION 3.210. — To the University of Missouri
For the Missouri Research and Education Network (MOREnet)

All Expenditures
From General Revenue Fund \$12,968,625

SECTION 3.215. — To the University of Missouri
For the University of Missouri Hospital and Clinics

All Expenditures
From General Revenue Fund \$9,679,635

SECTION 3.220. — To the University of Missouri
For the Ellis Fischel Cancer Center

All Expenditures
From General Revenue Fund \$4,581,985

SECTION 3.225. — To the University of Missouri
For the Missouri Rehabilitation Center

All Expenditures
From General Revenue Fund \$10,907,435

SECTION 3.230. — To the University of Missouri
For a program of research into Alzheimer's Disease

All Expenditures
From General Revenue Fund \$252,639

SECTION 3.235. — To the University of Missouri

For the Missouri Institute of Mental Health
 All Expenditures
 From General Revenue Fund \$2,555,389

SECTION 3.240. — To the University of Missouri
 For the treatment of renal disease in a statewide program
 All Expenditures
 From General Revenue Fund \$4,463,082

SECTION 3.245. — To the University of Missouri
 For the State Historical Society
 All Expenditures
 From General Revenue Fund \$1,025,112

SECTION 3.250. — To the Board of Curators of the University of Missouri
 For investment in registered federal, state, county, municipal, or school
 district bonds as provided by law
 From State Seminary Fund (0 F.T.E.) \$1,500,000

SECTION 3.255. — To the Board of Curators of the University of Missouri
 For the use of the University of Missouri
 From State Seminary Moneys Fund, Income from Investments (0 F.T.E.). \$250,000

Bill Totals

General Revenue Fund. \$979,128,985
 Federal Funds. 4,305,047
 Other Funds. 170,520,490
 Total. \$1,153,954,522

Approved June 22, 2001

HB 4 [CCS SCS HCS HB 4]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF REVENUE AND DEPARTMENT OF TRANSPORTATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue and the Department of Transportation, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 4.005. — To the Department of Revenue

Personal Service and/or Expense and Equipment	
From General Revenue Fund	\$37,647,617
From Federal Funds	2,530,953
From State Highways and Transportation Department Fund	42,081,728
From Petroleum Storage Tank Insurance Fund	38,587
From Department of Revenue Information Fund	770,633
From Petroleum Inspection Fund	30,809
From Health Initiatives Fund	46,052
From Motor Vehicle Commission Fund	667,133
From Conservation Commission Fund	506,054
From Division of Aging Elderly Home Delivered Meals Trust Fund	21,604

Annual salary adjustment in accordance with Section 105.005, RSMo	
From General Revenue Fund	105
From State Highways and Transportation Department Fund.	105
Total (Not to exceed 1983.63 F.T.E.).	\$84,341,380

SECTION 4.010. — To the Department of Revenue

For the Division of Administration	
For postage	
Expense and Equipment	
From General Revenue Fund	\$3,387,623
From Health Initiatives Fund	4,350
From Department of Revenue Information Fund	158,731
From State Highways and Transportation Department Fund	4,439,640
Total (0 F.T.E.).	\$7,990,344

SECTION 4.015. — To the Department of Revenue

For the Highway Reciprocity Commission	
Personal Service and/or Expense and Equipment	
From State Highways and Transportation Department Fund	
(Not to exceed 35.00 F.T.E.).	\$1,578,305

SECTION 4.025. — To the Department of Revenue

For the State Tax Commission	
Personal Service	\$3,084,470
Expense and Equipment	666,830
Annual salary adjustment in accordance with Section 105.005, RSMo.	630
From General Revenue Fund (Not to exceed 80.75 F.T.E.).	\$3,751,930

SECTION 4.030. — To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any payment that is credited to the General Revenue Fund	
From General Revenue Fund (0 F.T.E.).	\$1,068,300,000E

SECTION 4.035. — To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment credited to Federal and Other Funds
From Federal and Other Funds (0 F.T.E.). \$500,000E

SECTION 4.045. — To the Department of Revenue
For the state's share of the costs and expenses incurred pursuant to an
approved assessment and equalization maintenance plan as provided
by Chapter 137, RSMo
From General Revenue Fund (0 F.T.E.). \$18,218,433

SECTION 4.050. — To the Department of Revenue
For state costs for county assessor and assessor-elect certification
From General Revenue Fund (0 F.T.E.). \$100,800

SECTION 4.055. — To the Department of Revenue
For apportionment to the several counties and the City of St. Louis all
amounts accruing to the General Revenue Fund from the County
Stock Insurance Tax
From General Revenue Fund (0 F.T.E.). \$150,000E

SECTION 4.060. — To the Department of Revenue
For the purpose of refunding any tax or fee credited to the State Highways
and Transportation Department Fund
From State Highways and Transportation Department Fund (0 F.T.E.). \$2,015,448E

SECTION 4.065. — To the Department of Revenue
For payment of fees for entry of records into the federal Commercial
Drivers' Licensing Information System
Expense and Equipment
From State Highways and Transportation Department Fund (0 F.T.E.). \$275,000

SECTION 4.070. — To the Department of Revenue
For the Problem Driver Pointer System
Expense and Equipment
From State Highways and Transportation Department Fund (0 F.T.E.). \$180,500E

SECTION 4.075. — To the Department of Revenue
For payment of court costs and attorney fees pursuant to Section 302.536, RSMo
From State Highways and Transportation Department Fund (0 F.T.E.). \$15,000E

SECTION 4.080. — To the Department of Revenue
For distribution to cities and counties of all funds accruing to the Motor
Fuel Tax Fund under the provisions of Sections 30(a) and 30(b),
Article IV, Constitution of Missouri
From Motor Fuel Tax Fund (0 F.T.E.). \$188,000,000E

SECTION 4.085. — To the Department of Revenue
For refunding any overpayment or erroneous payment of any amount
credited to the Aviation Trust Fund
From Aviation Trust Fund (0 F.T.E.). \$16,000E

SECTION 4.090. — To the Department of Revenue

For refunds and distributions of motor fuel taxes

From State Highways and Transportation Department Fund. \$42,070,000E

SECTION 4.095. — To the Department of RevenueFor payment of fees to counties as a result of delinquent collections made
by circuit attorneys or prosecuting attorneys and payment of collection
agency fees

From General Revenue Fund (0 F.T.E.). \$2,728,000E

SECTION 4.100. — To the Department of RevenueFor payment of fees to counties for the filing of lien notices and lien
releases

From General Revenue Fund (0 F.T.E.). \$200,000

SECTION 4.105. — To the Department of RevenueFor refunds for overpayment or erroneous payment of any tax or any
payment credited to the Workers' Compensation Fund

From Workers' Compensation Fund (0 F.T.E.). \$1,171,774E

SECTION 4.110. — To the Department of RevenueFor refunds for overpayment or erroneous payment of any tax or any
payment credited to the Second Injury Fund

From Second Injury Fund (0 F.T.E.). \$498,966E

SECTION 4.115. — To the Department of RevenueFor refunds for overpayment or erroneous payment of any tax or any
payment for tobacco taxes

From Health Initiatives Fund. \$50,000E

From State School Moneys Fund 25,000E

From Fair Share Fund. 11,000E

Total (0 F.T.E.). \$86,000E

SECTION 4.120. — To the Department of RevenueFor refunds for overpayment or erroneous payment of any payment
credited to the Motor Vehicle Commission Fund

From Motor Vehicle Commission Fund (0 F.T.E.). \$12,000E

SECTION 4.125. — To the Department of Revenue

For payment of dues and fees to the Multistate Tax Commission

From General Revenue Fund (0 F.T.E.). \$232,101

SECTION 4.130. — There is transferred out of the state treasury,chargeable to the General Revenue Fund, such amounts as may be
necessary, to make payments of refunds set off against debts as
required by Section 143.786, RSMo, to the Debt Offset Escrow Fund

From General Revenue Fund \$6,000,000E

SECTION 4.135. — For the payment of refunds set off against

debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund. \$250,000E

SECTION 4.140. — There is transferred out of the state treasury,
chargeable to the School District Trust Fund, two million, five
hundred thousand dollars to the General Revenue Fund
From School District Trust Fund \$2,500,000

SECTION 4.145. — There is transferred out of the state treasury,
chargeable to the Parks Sales Tax Fund, sixty-six hundredths percent
of the funds received, to the General Revenue Fund
From Parks Sales Tax Fund \$200,000E

SECTION 4.150. — There is transferred out of the state treasury,
chargeable to the Soil and Water Sales Tax Fund, sixty-six
hundredths percent of the funds received, to the General Revenue
Fund
From Soil and Water Sales Tax Fund. \$200,000E

SECTION 4.155. — There is transferred out of the state treasury,
chargeable to the Solid Waste Management Fund, one hundred eight
thousand dollars to the General Revenue Fund
From Solid Waste Management Fund. \$108,000

SECTION 4.160. — There is transferred out of the state treasury,
chargeable to the General Revenue Fund, amounts from income tax
refunds designated by taxpayers for deposit in the Division of Aging
and Elderly Home Delivered Meals Trust Fund, Veterans' Trust Fund,
Children's Trust Fund and Missouri National Guard Trust Fund
From General Revenue Fund \$333,224E

SECTION 4.165. — There is transferred out of the state treasury,
chargeable to the funds listed below, amounts from income tax
refunds erroneously deposited to said funds, to the General Revenue
Fund
From Division of Aging and Elderly Home Delivered Meals Trust Fund. \$2,831E
From Veterans' Trust Fund 1,985E
From Children's Trust Fund 5,202E
From Missouri National Guard Trust Fund 651E
Total \$10,669E

SECTION 4.170. — There is transferred out of the state treasury,
chargeable to the Department of Revenue Information Fund, one
million, four hundred fifty-four thousand, eight hundred forty-three
dollars to the State Road Fund
From Department of Revenue Information Fund \$1,454,843E

SECTION 4.175. — There is transferred out of the state treasury,
chargeable to the State Highways and Transportation Department
Fund, two hundred one million, two hundred fifteen thousand, six
hundred fifty-five dollars to the State Road Fund
From State Highways and Transportation Department Fund. \$201,215,655E

SECTION 4.180. — To the Department of Revenue
For the State Lottery Commission

For any and all expenditures, including operating maintenance and repair
and minor renovations, necessary for the purpose of operating a state
lottery
Personal Service \$6,901,724
Expense and Equipment 40,810,057E
From Lottery Enterprise Fund (Not to exceed 178.50 F.T.E.) \$47,711,781

SECTION 4.185. — To the Department of Revenue
For the State Lottery Commission
For the payment of prizes
From Lottery Enterprise Fund (0 F.T.E.) \$80,000,000E

SECTION 4.190. — There is transferred out of the state treasury,
chargeable to the Lottery Enterprise Fund, one hundred fifty-five
million, nine hundred eighty thousand, four hundred eighty-four
dollars to the Lottery Proceeds Fund
From Lottery Enterprise Fund \$155,980,484E

SECTION 4.200. — To the Department of Transportation
For the Highways and Transportation Commission and Highway Program
Administration
Personal Service \$27,040,265
Expense and Equipment 10,802,708
From State Highways and Transportation Department Fund 37,842,973

For Administration fringe benefits
Personal Service 11,780,548E
Expense and Equipment 1,391,825E
From State Highways and Transportation Department Fund 13,172,373
Total (Not to exceed 612.00 F.T.E.) \$51,015,346

SECTION 4.205. — To the Department of Transportation
For the Construction Program
To pay the costs of reimbursing counties and other political subdivisions
for the acquisition of roads and bridges taken over by the state as
permanent parts of the state highway system, and for the costs of
locating, relocating, establishing, acquiring, constructing, recon-
structing, widening, and improving those highways, bridges, tunnels,
parkways, travel ways, tourways, and coordinated facilities
authorized under Article IV, Section 30(b) of the Constitution of
Missouri; of acquiring materials, equipment, and buildings necessary
for such purposes and for other purposes and contingencies relating
to the location and construction of highways and bridges; and to
receive funds from the United States government for like purposes
Personal Service
From State Highways and Transportation Department Fund \$82,773,807E

Expense and Equipment 55,263,520E
Construction 1,083,822,000E
From State Road Fund 1,139,085,520

Construction

From State Road Fund 415,000,000E

For all expenditures associated with refunding currently outstanding state
road bond debt

From State Road Fund 21,950,893E

For Construction Program fringe benefits

Personal Service 25,394,177E

Expense and Equipment. 2,596,434E

From State Highways and Transportation Department Fund. 27,990,611

Total (Not to exceed 1,995.00 F.T.E.). \$1,686,800,831

SECTION 4.210. — To the Department of Transportation

For the Transportation Enhancements Program of the Transportation

Equity Act for the 21st Century

From State Road Fund (0 F.T.E.). \$8,200,000E

SECTION 4.215. — To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads
and bridges and coordinated facilities authorized under Article IV,
Section 30(b) of the Constitution of Missouri; of acquiring materials,
equipment, and buildings necessary for such purposes and for other
purposes and contingencies related to the preservation and main-
tenance of highways and bridges

Personal Service

From State Highways and Transportation Department Fund. \$121,934,646E

Expense and Equipment

From State Road Fund 109,777,200E

For Maintenance Program fringe benefits

Personal Service 40,873,717E

Expense and Equipment. 4,402,904E

From State Highways and Transportation Department Fund. 45,276,621

Total (Not to exceed 3,686.00 F.T.E.). \$276,988,467

SECTION 4.220. — To the Department of Transportation

For Service Operations

To pay the costs of constructing, preserving, and maintaining the state
system of roads and bridges and coordinated facilities authorized
under Article IV, Section 30(b) of the Constitution of Missouri; of
acquiring materials, equipment, and buildings necessary for such
purposes and for other purposes and contingencies related to the
construction, preservation, and maintenance of highways and bridges

Personal Service

From State Highways and Transportation Department Fund. \$17,532,221

Expense and Equipment

From State Road Fund 85,241,770E

For Service Operations fringe benefits

Personal Service	5,278,558E
Expense and Equipment.	<u>567,708E</u>
From State Highways and Transportation Department Fund.	<u>5,846,266</u>
Total (Not to exceed 482.00 F.T.E.).	\$108,620,257

SECTION 4.225. — To the Department of Transportation

For the Mississippi River Parkway Commission

From General Revenue Fund (0 F.T.E.).	\$37,500
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***SECTION 4.230.** — To the Department of Transportation

For Multimodal Operations Administration

Personal Service	\$386,605
Expense and Equipment.	<u>31,446</u>
From General Revenue Fund	418,051

Personal Service	497,285
Expense and Equipment.	<u>650,000</u>
From Federal Funds	1,147,285

Expense and Equipment	
From State Road Fund	15,000

Personal Service	
From State Highways and Transportation Department Fund	162,996

Personal Service	
From State Transportation Fund	45,187

Personal Service.	326,960
Expense and Equipment.	<u>16,150</u>
From Aviation Trust Fund	343,110

For Multimodal Operations fringe benefits

Personal Service	147,454E
Expense and Equipment.	<u>6,004E</u>
From General Revenue Fund	153,458

Personal Service	127,320E
Expense and Equipment.	<u>2,685E</u>
From Federal Funds	130,005

Personal Service	50,982E
Expense and Equipment.	<u>1,771E</u>
From State Highways and Transportation Department Fund	52,753

Personal Service	12,582E
Expense and Equipment.	<u>249E</u>
From State Transportation Fund	12,831

Personal Service	
From Aviation Trust Fund.	<u>96,420</u>
Total (Not to exceed 29.00 F.T.E.).	\$2,577,096

*I hereby veto \$47,816, including \$20,190 general revenue for one additional staff in the Multimodal Administration section. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$4,640 general revenue for Multimodal Administration expense and equipment. I proposed this reduction after careful review of agency core operations. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Services by \$19,390 from \$386,605 to \$367,215 General Revenue Fund.
Expense and Equipment by \$5,440 from \$31,446 to \$26,006 General Revenue Fund.
From \$418,051 to \$393,221 in total from General Revenue Fund.
Personal Services by \$27,626 from \$497,285 to \$469,659 Federal Funds.
From \$1,147,285 to \$1,119,659 in total from Federal Funds.
From \$2,577,096 to \$2,524,640 in total for the section.

BOB HOLDEN, Governor

SECTION 4.235. — To the Department of Transportation
For Multimodal Operations

For reimbursements to the State Highways and Transportation
Department Fund for providing professional and technical services
and administrative support of multimodal programs

From General Revenue Fund	\$39,309
From Federal Funds	71,500
From State Transportation Fund.	32,420
From Aviation Trust Fund.	<u>12,701</u>
Total (0 F.T.E.).	\$155,930

SECTION 4.240. — To the Department of Transportation
For Multimodal Operations

For loans from the State Transportation Assistance Revolving Fund to
political subdivisions of the state or to public or private not-for-profit
organizations or entities in accordance with Section 226.191, RSMo

From State Transportation Assistance Revolving Fund (0 F.T.E.). \$1,350,000E

***SECTION 4.245.** — There is transferred out of the state treasury,
chargeable to the General Revenue Fund, eight million, eight
hundred seventeen thousand, nine hundred seventy-seven dollars
(\$8,817,977) to the State Transportation Fund

From General Revenue Fund \$8,817,977

*I hereby veto \$450,000 general revenue for the appropriated transfer of funds from the general revenue fund to the State Transportation Fund for transit grants. The Department of Transportation will distribute an additional \$1.6 million in federal transit grants in Fiscal Year 2002. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$450,000 from \$8,817,977 to \$8,367,977 in total from General Revenue Fund.
From \$8,817,977 to \$8,367,977 in total for the section.

BOB HOLDEN, Governor

***SECTION 4.250.** — To the Department of Transportation

For the Transit Program

For distributing funds to urban, small urban, and rural transportation
systems

From State Transportation Fund (0 F.T.E.) \$8,817,977

*I hereby veto \$450,000 from the state transportation fund for distributing funds to urban, small urban, and rural transportation systems. The Department of Transportation will distribute an additional \$1.6 million in federal transit grants in Fiscal Year 2002. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$450,000 from \$8,817,977 to \$8,367,977 in total from State Transportation Fund.

From \$8,817,977 to \$8,367,977 in total for the section.

BOB HOLDEN, Governor

SECTION 4.255. — To the Department of Transportation

For the Transit Program

For locally matched capital improvement grants under Section 5310, Title
49, United States Code to assist private, non-profit organizations in
improving public transportation for the state's elderly and people with
disabilities

From Federal Funds (0 F.T.E.) \$1,600,739E

SECTION 4.260. — To the Department of Transportation

For the Transit Program

For an operating subsidy for not-for-profit transporters of the elderly,
people with disabilities, and low-income individuals

From General Revenue Fund (0 F.T.E.) \$2,943,732

SECTION 4.265. — To the Department of Transportation

For the Transit Program

For grants to urban areas under Section 5307, Title 49, United States Code

From Federal Funds (0 F.T.E.) \$3,974,641E

SECTION 4.270. — To the Department of Transportation

For the Transit Program

For locally matched grants to small urban and rural areas under Section
5311, Title 49, United States Code

From Federal and Local Funds (0 F.T.E.) \$5,106,574E

SECTION 4.275. — To the Department of Transportation

For the Transit Program

For grants under Section 5309, Title 49, United States Code to assist
private, non-profit organizations providing public transportation
services

From Federal Funds (0 F.T.E.) \$12,000,000E

SECTION 4.280. — To the Department of TransportationFor the Transit Program

For grants to metropolitan areas under Section 5303, Title 49, United States Code
 From Federal Funds (0 F.T.E.) \$908,000E

SECTION 4.285. — To the Department of Transportation

For the Rail Program

For grants under Section 5 of the Department of Transportation Act, as amended by the reauthorizing act, for acquisition, rehabilitation, improvement or rail facility construction assistance
 From Federal Funds (0 F.T.E.) \$350,378E

SECTION 4.290. — To the Department of Transportation

For the Rail Program

For state participation in the joint state/federal Amtrak Rail Passenger Service Program

From General Revenue Fund \$4,700,000
 From State Transportation Fund 1,500,000
 Total (0 F.T.E.) \$6,200,000

SECTION 4.295. — To the Department of Transportation

For the Rail Program

For promotional costs related to the St. Louis-Kansas City state-assisted Amtrak route

From General Revenue Fund \$125,000

For station repairs and improvements at Missouri Amtrak stations

From State Transportation Fund 25,000
 Total (0 F.T.E.) \$150,000

SECTION 4.305. — To the Department of Transportation

For the Aviation Program

For construction, capital improvements, and maintenance of publicly owned airfields by cities or other political subdivisions, including land acquisition, and for printing charts and directories

From Aviation Trust Fund (0 F.T.E.) \$4,600,000E

SECTION 4.310. — To the Department of Transportation

For the Aviation Program

For construction, capital improvements, or planning of publicly owned airfields by cities or other political subdivisions, including land acquisition, pursuant to the provisions of the State Block Grant Pilot Program authorized by Section 116 of the Federal Airport and Airway Safety and Capacity Expansion Act of 1987

From Federal Funds (0 F.T.E.) \$11,000,000E

***SECTION 4.315.** — To the Department of Transportation

For the Waterways Program

For grants to port authorities for assistance in port planning, acquisition, or construction within the port districts

From General Revenue Fund (0 F.T.E.) \$514,987

*I hereby veto \$25,000 general revenue for administrative assistance for the Mid-America Port Commission and \$20,000 for administrative assistance for the Mississippi County Port Authority. Each port authority has an annual opportunity to compete for funding assistance from the Department of Transportation. Setting aside funds for a specific port outside of the established review process is not the most effective way to allocate limited resources. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. These vetoes are necessary to help bring expenditures in line with available resources.

By \$45,000 from \$514,987 to \$469,987 in total from General Revenue Fund.
From \$514,987 to \$469,987 in total for the section.

BOB HOLDEN, Governor

Bill Totals

General Revenue..	\$1,158,799,847
Federal Funds.	38,820,075
Other Funds.	<u>2,552,769,519</u>
Total.	3,750,389,441

Approved June 22, 2001

HB 5 [SCS HCS HB 5]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION AND CHIEF EXECUTIVE OFFICE.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 5.005. — To the Office of Administration For the Commissioner and Central Staff

Personal Service	\$1,278,819
Annual salary adjustment in accordance with Section 105.005, RSMo	210
Expense and Equipment.	<u>383,239</u>
From General Revenue Fund (Not to exceed 30.45 F.T.E.).	\$1,662,268

SECTION 5.010. — To the Office of Administration For the Division of Accounting

Personal Service	\$2,685,447
Expense and Equipment	<u>680,480</u>
From General Revenue Fund	3,365,927

Personal Service	
From Federal Surplus Property Fund.	<u>39,228</u>
Total (Not to exceed 80.50 F.T.E.).	\$3,405,155

SECTION 5.015. — To the Office of Administration

For the Division of Budget and Planning

Personal Service	\$1,632,343
Expense and Equipment	<u>214,113</u>
From General Revenue (Not to exceed 33.00 F.T.E.).	\$1,846,456

SECTION 5.020. — To the Office of Administration

For the Division of Budget and Planning

For Census 2000 activities

Personal Service	\$158,157
Expense and Equipment	<u>132,120</u>
From General Revenue Fund (Not to exceed 3.67 F.T.E.).	\$290,277

SECTION 5.025. — To the Office of Administration

For the Division of Budget and Planning

For research and development activities

From General Revenue Fund	\$16,500
From Federal Funds.	<u>50,000</u>
Total (0 F.T.E.).	\$66,500

SECTION 5.030. — To the Office of Administration

For the Division of Information Services

Personal Service	\$3,414,478
Expense and Equipment	6,154,181
Personal Service and/or Expense and Equipment	<u>125,000</u>

Any and all expenditures for maintenance of the statewide

financial and human resources management system. 1,065,811

From General Revenue Fund 10,759,470

Personal Service	5,533,046
Expense and Equipment	33,470,636
Personal Service and/or Expense and Equipment	<u>150,000</u>
From the Office of Administration Revolving Administrative Trust	
Fund.	<u>39,153,682</u>
Total (Not to exceed 214.40 F.T.E.).	\$49,913,152

SECTION 5.035. — To the Office of Administration

For the Division of Information Services

For the centralized telephone billing system

Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund

(0 F.T.E.). \$40,000,000E

SECTION 5.040. — There is transferred out of the State Treasury,
chargeable to the Office of Administration Revolving Administrative
Trust Fund for funds generated by telephone contracts with the
Department of Corrections, One Million, Five Hundred Fifty-Five
Thousand Dollars (\$1,555,000) to the General Revenue Fund
From Office of Administration Revolving Administrative Trust Fund \$1,555,000E

SECTION 5.045. — To the Office of Administration
For the Division of Design and Construction
Personal Service \$1,987,330
Expense and Equipment. 304,246
From General Revenue Fund 2,291,576

Personal Service 2,557,976
Expense and Equipment. 532,339
From Office of Administration Revolving Administrative Trust Fund 3,090,315
Total (Not to exceed 107.00 F.T.E.). \$5,381,891

SECTION 5.050. — To the Office of Administration
For the Division of Design and Construction
For the purpose of funding construction administration
Personal Service \$851,200
Expense and Equipment. 320,000
From Office of Administration Revolving Administrative Trust
Fund (Not to exceed 25.00 F.T.E.). \$1,171,200

SECTION 5.055. — To the Office of Administration
For the Division of Design and Construction
For refunding bid plan deposits
From Office of Administration Revolving Administrative Trust
Fund (0 F.T.E.). \$140,000E

SECTION 5.060. — To the Office of Administration
For the Division of Personnel
Personal Service \$3,328,247
Expense and Equipment. 444,781
From General Revenue Fund 3,773,028

Personal Service 59,302
Expense and Equipment 320,000
From Office of Administration Revolving Administrative Trust Fund 379,302
Total (Not to exceed 94.85 F.T.E.). \$4,152,330

SECTION 5.080. — To the Office of Administration
For the Division of Personnel
For employee suggestion awards
From Office of Administration Revolving Administrative Trust
Fund (0 F.T.E.). \$10,000

SECTION 5.085. — To the Office of Administration
For the Division of Purchasing and Materials Management
Personal Service \$1,742,865

Expense and Equipment 364,729
 From General Revenue Fund (Not to exceed 48.00 F.T.E.). \$2,107,594

SECTION 5.090. — To the Office of Administration
 For the Division of Purchasing and Materials Management
 For refunding bid and performance bonds
 From Office of Administration Revolving Administrative Trust
 Fund (0 F.T.E.). \$2,112,000E

SECTION 5.095. — To the Office of Administration
 For the Division of Purchasing and Materials Management
 For operation of the State Agency for Surplus Property
 Personal Service \$675,742
 Expense and Equipment 752,884
 Fixed Price Vehicle Program 800,000E
 From Federal Surplus Property Fund (Not to exceed 22.50 F.T.E.). \$2,228,626

SECTION 5.100. — To the Office of Administration
 For the Division of Purchasing and Materials Management
 For Surplus Property recycling activities
 From Federal Surplus Property Fund (0 F.T.E.). \$13,000E

SECTION 5.105. — To the Office of Administration
 For the Division of Purchasing and Materials Management
 For the disbursement of surplus property sales receipts
 From Proceeds of Surplus Property Sales Fund (0 F.T.E.). \$1,090,000E

SECTION 5.110. — To the Office of Administration
 For the Division of Facilities Management Leasing Operations
 Personal Service \$1,130,088
 Expense and Equipment 233,386
 From Office of Administration Revolving Administrative Trust
 Fund (Not to exceed 28.39 F.T.E.). \$1,363,474

SECTION 5.115. — To the Office of Administration
 For the Division of Facilities Management
 Leasing Operations
 There is transferred out of the State Treasury, chargeable to the General
 Revenue Fund, One Million, Seven Hundred Thirty-Four Thousand,
 Six Hundred Seven Dollars (\$1,734,607) to the Office of
 Administration Revolving Administrative Trust Fund
 From General Revenue Fund \$1,734,607

SECTION 5.120. — To the Office of Administration
 For the Division of Facilities Management
 Leasing Operations
 There is transferred out of the State Treasury, chargeable to the various
 funds, amounts paid from the General Revenue Fund for services
 related to leasing operations to the General Revenue Fund
 From Federal Funds. \$593,000E
 From Other Funds 164,352E
 Total \$757,352

SECTION 5.125. — To the Office of Administration

For the Division of Facilities Management

For the payment of fuel, utilities, and related expenses for leased facilities

Expense and Equipment

From Office of Administration Revolving Administrative Trust

Fund (0 F.T.E.). \$2,297,179E

SECTION 5.130. — To the Board of Public Buildings

For payment of rent by the state to the Board for state agencies occupying revenue bond financed buildings. Funds are to be used by the Board

for principal, interest, and reserve fund requirements of Board of

Public Building bonds or for leased purchase payments and related

expenses for Department of Mental Health facilities

From General Revenue Fund (0 F.T.E.). \$33,297,740

SECTION 5.135. — To the Board of Public Buildings

For all expenditures associated with refunding currently outstanding debt

From General Revenue Fund (0 F.T.E.). \$1E

SECTION 5.140. — To the Board of Public Buildings

For payment of arbitrage rebate and related expenses

From General Revenue Fund (0 F.T.E.). \$25,000E

SECTION 5.142. — To the Office of Administration

For the Division of Facilities Management

For authority to spend donated funds to support renovations and operations of the Governor's Mansion

From State Facility Maintenance and Operation Fund (0 F.T.E.). \$40,000E

SECTION 5.145. — To the Board of Public Buildings

For the Office of Administration

For the Division of Facilities Management

For any and all expenditures necessary for the purpose of funding the operations of the Fletcher Daniels State Office Building, Springfield State Office Complex, Wainwright State Office Building, Midtown State Office Building, Hubert Wheeler Building, Harry S Truman State Office Building, St. Joseph State Office Building, the Kirkpatrick Information Center, 220 S. Jefferson; and the office buildings, laboratories, and support facilities at the seat of government

From State Facility Maintenance and Operation Fund

(Not to exceed 227.08 F.T.E.). \$17,557,934

SECTION 5.150. — To the Office of Administration

For the Division of Facilities Management

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance and Reserve Fund. \$246,672

From State Facility Maintenance and Operation Fund 572,083

Total (0 F.T.E.). \$818,755

SECTION 5.155. — There is transferred out of the State Treasury,

chargeable to the General Revenue Fund, for payment of rent by the

state to the Board of Public Buildings for state agencies occupying the

Fletcher Daniels State Office Building, Springfield State Office Complex, Wainwright State Office Building, Midtown State Office Building, Hubert Wheeler Building, Harry S Truman State Office Building, St. Joseph State Office Building, the Kirkpatrick Information Center, 220 S. Jefferson; and to the Office of Administration for the office buildings, laboratories, and support facilities at the seat of government for any and all expenditures for the purpose of funding the operation of the buildings and facilities, the following amount to the State Facility Maintenance and Operation Fund

From General Revenue Fund \$20,248,769

SECTION 5.160. — There is transferred out of the State Treasury, chargeable to the funds shown below, for payment of rent by the state to the Board of Public Buildings for state agencies occupying the Fletcher Daniels State Office Building, Springfield State Office Complex, Wainwright State Office Building, Midtown State Office Building, Hubert Wheeler Building, Harry S Truman State Office Building, St. Joseph State Office Building, the Kirkpatrick Information Center, 220 S. Jefferson; and to the Office of Administration for the office buildings, laboratories, and support facilities at the seat of government for any and all expenditures for the purpose of funding the operation of the buildings and facilities, the following amount to the General Revenue Fund

From Federal Funds. \$506,053E
 From Other Funds 4,498,241E
 Total \$5,004,294

SECTION 5.165. — To the Board of Public Buildings
 For the Office of Administration
 For the Division of Facilities Management
 For modifications and other support services at state-owned facilities
 From State Facility Maintenance and Operation Fund (0 F.T.E.). \$990,000E

SECTION 5.170. — To the Office of Administration
 For the Division of Facilities Management
 For building operations
 Personal Service. \$39,906
 Expense and Equipment. 47,118
 From General Revenue Fund 87,024

Personal Service. 67,139
 Expense and Equipment. 108,287
 From Federal Funds. 175,426
 Total (Not to exceed 3.00 F.T.E.). \$262,450

SECTION 5.175. — To the Office of Administration
 For the Division of General Services
 Personal Service \$1,570,639
 Expense and Equipment. 367,611
 From General Revenue Fund 1,938,250

Personal Service 2,360,028

Expense and Equipment	1,813,342
From Office of Administration Revolving Administrative Trust Fund	<u>4,173,370</u>
Total (Not to exceed 121.45 F.T.E.).	\$6,111,620

SECTION 5.180. — To the Office of Administration

For the provision of workers' compensation benefits to state employees through either a self-insurance program administered by the Office of Administration and/or by contractual agreement with a private carrier and for administrative and legal expenses authorized, in part, by Section 105.810, RSMo

From General Revenue Fund	\$15,800,000E
From Conservation Commission Fund	<u>500,000E</u>
Total (0 F.T.E.).	\$16,300,000

SECTION 5.185. — To the Office of Administration

There is hereby transferred out of the State Treasury, chargeable to various funds, amounts paid from the General Revenue Fund for workers' compensation benefits provided to employees paid from these other funds to the General Revenue Fund

From Federal Funds.	\$900,000E
From Other Sources	<u>1,050,000E</u>
Total	\$1,950,000

SECTION 5.190. — To the Office of Administration

For the Division of General Services

For workers' compensation tax payments pursuant to Section 287.690, RSMo

From General Revenue Fund	\$1,050,000E
From Conservation Commission Fund	<u>40,000E</u>
Total (0 F.T.E.).	\$1,090,000

SECTION 5.195. — There is transferred out of the State Treasury,

chargeable to the funds shown below, for the payment of claims, premiums, and expenses as provided by Section 105.711 through 105.726, RSMo, the following amounts to the State Legal Expense Fund

From General Revenue Fund	\$4,000,000E
From Office of Administration Revolving Administrative Trust Fund	25,000E
From Conservation Commission Fund	130,000E
From State Highways and Transportation Department Fund	600,000E
From Other Sources.	<u>2,435E</u>
Total	\$4,757,435

SECTION 5.200. — To the Office of Administration

For the payment of claims and expenses as provided by Section 105.711 et seq., RSMo, and for purchasing insurance against any or all liability of the State of Missouri or any agency, officer, or employee thereof

From State Legal Expense Fund (0 F.T.E.).	\$4,757,435E
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SECTION 5.205. — To the Office of Administration

For the Division of General Services

For rebillable expenses and for the replacement or repair of damaged
equipment when recovery is obtained from a third party
Expense and Equipment
From Office of Administration Revolving Administrative Trust
Fund (0 F.T.E.). \$4,000,000E

SECTION 5.210. — To the Office of Administration
For the Division of General Services
For the Governor's Council on Physical Fitness and Health
For the expenditure of contributions, gifts, and grants to promote physical
fitness and healthy lifestyles
From Governor's Council on Physical Fitness Trust Fund (0 F.T.E.). \$350,000

SECTION 5.215. — To the Office of Administration
For the Administrative Hearing Commission
Personal Service \$772,192
Annual salary adjustment in accordance with Section 105.005, RSMo 630
Expense and Equipment 138,717
From General Revenue Fund (Not to exceed 18.00 F.T.E.). \$911,539

SECTION 5.220. — To the Office of Administration
For the administrative, promotional, and programmatic costs of the
Children's Trust Fund Board as provided by Section 210.173, RSMo
Personal Service \$183,921
Expense and Equipment 146,239
For program disbursements 3,360,000E
For the expenditure of gifts and grants 1E
From Children's Trust Fund (Not to exceed 5.00 F.T.E.). \$3,690,161

SECTION 5.225. — To the Office of Administration
For the Children's Services Commission
Expense and Equipment
From Children's Services Commission Fund (0 F.T.E.). \$10,000

SECTION 5.230. — To the Office of Administration
For those services provided through the Office of Administration that are
contracted with and reimbursed by the Board of Trustees of the
Missouri Public Entity Risk Management Fund as provided by
Chapter 537, RSMo
Personal Service \$560,742
Expense and Equipment. 64,847
From Office of Administration Revolving Administrative Trust
Fund (Not to exceed 16.00 F.T.E.). \$625,589

SECTION 5.235. — To the Office of Administration
For the Missouri Ethics Commission
Personal Service \$844,362
Expense and Equipment 625,662
For lobbyist law enforcement. 5,000
From General Revenue Fund (Not to exceed 22.00 F.T.E.). \$1,475,024

SECTION 5.240. — To the Office of Administration

For the Office of Information Technology

Personal Service and an annual status report of information technology projects. The report is to be submitted to the Senate Appropriations Committee Chair and the House Budget Chair by December 31 of each year

From General Revenue Fund \$194,496

Personal Service 173,589

Expense and Equipment. 100,939

From Office of Administration Revolving Administrative Trust Fund 274,528

For project oversight

Personal Service and/or Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund 177,000

For the Office of Information Technology for the implementation of the Missouri E-Government Initiative

A quarterly report specifying budgeted costs, actual costs, and the expected return on investment shall be provided to the Chairs of the Senate Appropriations Committee and the House Budget Committee. Personal Service and/or Expense and Equipment

From the Office of Administration Revolving Administrative Trust Fund. 2,838,354

For the Justice Integration Project

Personal Service. 45,000

Expense and Equipment. 465,815

From Federal Funds. 510,815

Total (Not to exceed 6.00 F.T.E.). \$3,995,193

SECTION 5.243. — There is transferred out of the State Treasury,

chargeable to the funds shown below, for payment associated with the projects comprising the Missouri E-Government Initiative, the following amount to the Office of Administration Revolving Administrative Trust Fund

From General Revenue Fund \$2,838,354

SECTION 5.245. — To the Office of Administration

For transferring funds for all state employees and participating political subdivisions to the OASDHI Contributions Fund

From General Revenue Fund \$75,908,000E

From Federal Funds 21,622,000E

From Other Sources 25,150,000E

Total \$122,680,000

SECTION 5.250. — To the Department of Transportation

For transferring funds from the state's contribution to the OASDHI Contributions Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund. \$17,100,000E

SECTION 5.255. — To the Office of Administration

For the payment of OASDHI taxes for all state employees and for participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees

From OASDHI Contributions Fund (0 F.T.E.). \$139,780,000E

SECTION 5.260. — To the Office of Administration

For transferring funds for the state's contribution to the Missouri State Employees' Retirement System to the State Retirement Contributions Fund

From General Revenue Fund \$143,898,000E

From Federal Funds 38,585,000E

From Other Sources. 32,714,000E

Total \$215,197,000

SECTION 5.265. — To the Office of Administration

For payment of the state's contribution to the Missouri State Employees' Retirement System

From State Retirement Contributions Fund (0 F.T.E.). \$215,197,000E

SECTION 5.270. — To the Office of Administration

For payment of retirement benefits to the Public School Retirement System pursuant to Section 104.342, RSMo

From General Revenue Fund \$2,500,000E

From Federal Funds 1,070,000E

From Video Instructional Development and Educational Opportunity Fund 14,500E

From Lottery Proceeds Fund 30,000E

From State Schools Moneys Fund 38,460E

From Department of Social Services Educational Improvement Fund 27,100E

Total (0 F.T.E.). \$3,680,060

SECTION 5.275. — To the Office of Administration

For the administration of the Deferred Compensation Program Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$2,872

SECTION 5.280. — To the Office of Administration

For transferring funds for all state employees who are qualified participants in the state Deferred Compensation Plan in accordance with Section 105.927, RSMo, and pursuant to Section 401(a) of the Internal Revenue Code to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund

From General Revenue Fund \$6,200,000E

From Federal Funds 2,100,000E

From Other Sources 2,600,000E

Total \$10,900,000

SECTION 5.285. — To the Department of Transportation

For transferring funds for the state's contribution to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund. \$1,400,000E

SECTION 5.290. — To the Office of Administration

For the payment of funds credited by the state at a maximum rate of \$25 per month per qualified participant in accordance with Section 105.927, RSMo to deferred compensation investment companies

From Missouri State Employees' Deferred Compensation

Incentive Plan Administration Fund (0 F.T.E.). \$12,300,000E

SECTION 5.295. — To the Office of Administration

For reimbursing the Division of Employment Security benefit account for claims paid to former state employees for unemployment insurance coverage and for related professional services

From General Revenue Fund \$1,634,500E

From Federal Funds 287,700E

From Other Funds. 530,001E

Total (0 F.T.E.). \$2,452,201

SECTION 5.300. — To the Office of Administration

For transferring funds for the state's contribution to the Missouri Consolidated Health Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund

From General Revenue Fund \$152,369,143E

From Federal Funds 41,084,786E

From Other Sources 24,844,156E

Total \$218,298,085

SECTION 5.305. — To the Office of Administration

For payment of the state's contribution to the Missouri Consolidated Health Care Plan

From Missouri Consolidated Health Care Plan Benefit

Fund (0 F.T.E.). \$218,298,085E

SECTION 5.310. — To the Office of Administration

For paying refunds for overpayment or erroneous payment of employee withholding taxes

From General Revenue Fund (0 F.T.E.). \$36,000E

SECTION 5.315. — To the Office of Administration

For providing voluntary life insurance

From the Missouri State Employees' Voluntary Life

Insurance Fund (0 F.T.E.). \$732,000E

SECTION 5.320. — To the Office of Administration

For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the leases of flood control lands, under the provisions of an Act of

Congress approved June 28, 1938, to be distributed to certain counties
in Missouri in accordance with the provisions of state law
From Federal Funds (0 F.T.E.) \$865,000E

SECTION 5.325. — To the Office of Administration

For paying the several counties of Missouri the amount that has been paid
into the State Treasury by the United States Treasury as a refund from
the National Forest Reserve, under the provisions of an Act of
Congress approved June 28, 1938, to be distributed to certain counties
in Missouri
From Federal Funds (0 F.T.E.) \$2,415,000E

SECTION 5.330. — To the Office of Administration

There is transferred out of the State Treasury, chargeable to the General
Revenue Fund, Six Hundred Thousand Dollars (\$600,000) to the
Water Development Fund
From General Revenue Fund \$600,000

SECTION 5.335. — To the Office of Administration

For the payment of interest, operations, and maintenance in accordance
with the Cannon Water Contract
From Water Development Fund (0 F.T.E.) \$600,000

SECTION 5.340. — To the Office of Administration

For the payment of principal, interest, and annual fee requirements of the
Missouri Health and Educational Facilities Authority for Missouri
College Savings Bonds
From General Revenue Fund (0 F.T.E.) \$10,000E

SECTION 5.345. — To the Office of Administration

For debt service contingency for the New Jobs Training Certificates
Program
From General Revenue Fund (0 F.T.E.) \$1E

SECTION 5.350. — To the Office of Administration

For interest payments on federal grant monies in accordance with the Cash
Management Improvement Act of 1990 and 1992
From General Revenue Fund (0 F.T.E.) \$1,400,000E

SECTION 5.355. — To the Office of Administration

For payment to counties for salaries of juvenile court personnel as provided
by Sections 211.393 and 211.394, RSMo
From General Revenue Fund (0 F.T.E.) \$9,500,000

SECTION 5.360. — To the Office of Administration

For participation by the State of Missouri in the Compact for the
Education Commission of the States
From General Revenue Fund (0 F.T.E.) \$78,800

SECTION 5.365. — To the Office of Administration

For the Bartle Hall Convention Center expansion, operations, development,
or maintenance in Kansas City pursuant to Sections 67.638 through
67.641, RSMo
From General Revenue Fund (0 F.T.E.). \$2,000,000

SECTION 5.370. — To the Office of Administration
For the maintenance of the Jackson County Sports Complex pursuant to
Sections 67.638 through 67.641, RSMo
From General Revenue Fund (0 F.T.E.). \$3,000,000

SECTION 5.375. — To the Office of Administration
For the expansion of the dual-purpose Transworld Dome project in St.
Louis
From General Revenue Fund (0 F.T.E.). \$12,000,000

SECTION 5.385. — To the Office of Administration
For participation by the State of Missouri in the Governmental
Accounting Standards Board
From General Revenue Fund (0 F.T.E.). \$26,100

***SECTION 5.390.** — To the Office of Administration
For payments to certain counties with mental institutions for reimburse-
ment of salaries of public administrators' secretaries
From General Revenue Fund. \$110,820

*I hereby veto \$110,820 general revenue for payments to certain counties with mental
institutions for reimbursement of salaries of public administrators' secretaries. A weak national
economy is expected to depress revenue collections well below original estimates for Fiscal Year
2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$110,820 from \$110,820 to \$0 from General Revenue
Fund.
From \$110,820 to \$0 in total for the section.

BOB HOLDEN, Governor

SECTION 5.400. — To the Office of Administration
For payments to counties for county correctional prosecution reimburse-
ments pursuant to Sections 50.850 and 50.853, RSMo
From General Revenue Fund (0 F.T.E.). \$44,000E

SECTION 5.405. — To the Office of Administration
For paying an amount in aid to the counties that is the net amount of costs
in criminal cases, transportation of convicted criminals to the state
penitentiaries, and costs for reimbursement of the expenses associated
with extradition, less the amount of unpaid city or county liability to
furnish public defender office space and utility services pursuant to
Section 600.040, RSMo
From General Revenue Fund (0 F.T.E.). \$30,680,000E

SECTION 5.420. — To the Office of Administration
For distribution to regional planning commissions and local governments,
state grants provided for by Chapter 251, RSMo

From General Revenue Fund (0 F.T.E.). \$580,000

SECTION 5.425. — To the Office of Administration

For establishment of an intergovernmental network for promoting
economic development

From Federal Funds (0 F.T.E.). \$50,000

SECTION 5.430. — To the Office of Administration

For the payment of claims against the Escheats Fund

From Escheats Fund (0 F.T.E.). \$300,000E

***SECTION 5.435.** — To the Office Administration

For grants to public television stations as provided in Sections 37.200
through 37.230, RSMo

From General Revenue Fund. \$93,315

For grants to public television and public radio stations as provided in
Section 143.183, RSMo

From Missouri Public Broadcasting Corporation Special Fund. 463,991

Total (0 F.T.E.). \$557,306

*I hereby veto \$31,153 from the Missouri Public Broadcasting Corporation Special Fund for payments to public television and radio stations. The veto maintains the distribution ratio of taxes paid by non-resident athletes and entertainers as established by Section 143.183 RSMO. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources. This represents the spending authority for section 5.440.

For grants to public television and public radio stations as provided in Section 143.183, RSMo by \$31,153 from \$463,991 to \$432,838.

From \$463,991 to \$432,838 in total from the Missouri Public Broadcasting Corporation Special Fund.

From \$557,306 to \$526,153 in total for the section.

BOB HOLDEN, Governor

***SECTION 5.440.** — To the Office of Administration

There is transferred out of the State Treasury, chargeable to the General
Revenue Fund, Four Hundred Sixty-Three Thousand, Nine Hundred
Ninety-One Dollars (\$463,991) to the Missouri Public Broadcasting
Corporation Special Fund

From General Revenue Fund. \$463,991

*I hereby veto \$31,153 general revenue transfer to the Missouri Public Broadcasting Corporation Special Fund. The veto maintains the distribution ratio of taxes paid by non-resident athletes and entertainers as established by Section 143.183 RSMO. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$31,153 from \$463,991 to \$432,838 in total from General Revenue Fund.

From \$463,991 to \$432,838 in total for the section.

BOB HOLDEN, Governor

SECTION 5.445. — To the Office of Administration

For distribution to the Board of Curators of the University of Missouri and the Board of Curators of Lincoln University for use in the Colleges of Agriculture and Mechanical Arts under Acts of Congress approved August 30, 1890 (26 Stat. L. 417-419) and March 4, 1907 (34 Stat. L. 1256; 1281-1282) Department of Education, with funds to be apportioned as follows: 1/16 of total to Lincoln University; 1/4 to University of Missouri-Rolla; and balance to University of Missouri-Columbia

From Federal Funds (0 F.T.E.). \$1E

SECTION 5.455. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, such amounts as may become necessary, to the State Elections Subsidy Fund

From General Revenue Fund \$875,431E

SECTION 5.460. — To the Office of Administration

For the state's share of special election costs as required by

Sections 115.077 and 115.063, RSMo \$155,001E

For transaction cost reimbursement as provided for in Section

115.065, RSMo. 720,430

From State Elections Subsidy Fund (0 F.T.E.). \$875,431

SECTION 5.465. — To the Office of Administration

For audit recovery distribution

From General Revenue Fund (0 F.T.E.). \$100,000E

SECTION 5.468. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, for the statewide operational maintenance and repair appropriations, the following amount to the Facilities Maintenance and Reserve Fund

From General Revenue Fund \$3,519,322

SECTION 5.500. — There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund, One Dollar (\$1E) to the General Revenue Fund

From Office of Administration Revolving Administrative Trust Fund \$1E

SECTION 5.505. — To the Office of Administration

For employee medical expense reimbursements reserve

From General Revenue Fund (0 F.T.E.). \$200,000

SECTION 5.517. — To the Office of Administration

The Commissioner of Administration shall provide a monthly report specifying the deficient accounts, funds and amounts submitted for payment from this appropriation. This report shall be submitted to the Chairs of the Senate Appropriations Committee and the House Budget Committee

Personal Services for state payroll contingency

From General Revenue Fund (0 F.T.E.). \$1E

SECTION 5.525. — There is transferred out of the State Treasury,

chargeable to the Budget Reserve Fund, such amounts as may be necessary for cash-flow assistance to various funds	
From Budget Reserve Fund to General Revenue Fund.....	\$1E
From Budget Reserve Fund to Other Funds	<u>4,700,000E</u>
Total	\$4,700,001

SECTION 5.530. — There is transferred out of the State Treasury,
for repayment of cash-flow assistance to the Budget Reserve Fund

From General Revenue Fund	\$1E
From Other Funds	<u>4,700,000E</u>
Total	\$4,700,001

SECTION 5.535. — There is transferred out of the State Treasury,
for interest payments on cash-flow assistance to the Budget Reserve
Fund

From General Revenue Fund	\$1E
From Other Funds	<u>1E</u>
Total	\$2

SECTION 5.537. — There is transferred out of the State Treasury,
for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund	\$1E
From Budget Reserve Fund.....	<u>1E</u>
Total	\$2

SECTION 5.540. — There is transferred out of the State Treasury,
for corrections to prior year fund balances

From General Revenue Fund	\$1E
From Other Funds	<u>1E</u>
Total	\$2

SECTION 5.545. — There is transferred out of the State Treasury,
such amounts as may be necessary for the movement of cash
between funds

From any fund except General Revenue Fund	\$1E
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Bill Totals

General Revenue	\$557,544,199
Federal Funds	108,815,728
Other Funds.....	<u>114,173,670</u>
Total	\$780,533,597

Approved June 22, 2001

HB 6 [CCS SCS HCS HB 6]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES AND DEPARTMENT OF CONSERVATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions and programs thereof and for the expenses, grants, refunds, distributions, and capital improvements projects involving the repair, replacement and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

***SECTION 6.005.** — To the Department of Agriculture

For the Office of the Director

Personal Service	\$1,643,729
Annual salary adjustment in accordance with Section 105.005, RSMo	210
Expense and Equipment	762,914
For Ethanol Commission expenses	5,000

For refunds of erroneous receipts due to errors in application for licenses,

registrations, permits, certificates, subscriptions, or other fees.	4,000E
From General Revenue Fund	2,415,853

Personal Service	51,687
Expense and Equipment.	141,115
From Federal Funds and Other Funds	192,802

For the Agricultural Awareness Program

From Federal Funds	25,000
From State Institutions Gift Trust Fund	25,000
Total (Not to exceed 43.00 F.T.E.).	\$2,658,655

*I hereby veto \$115,000 for the Department of Agriculture, Office of Director, including \$90,000 for an attorney and \$25,000 for a crop identification study. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Service by \$77,000 from \$1,643,729 to \$1,566,729.
Expense and Equipment by \$38,000 from \$762,914 to \$724,914.
From \$2,415,853 to \$2,300,853 in total from General Revenue Fund.
From \$2,658,655 to \$2,543,655 in total for the section.

BOB HOLDEN, Governor

SECTION 6.010. — To the Department of Agriculture

For the Office of the Director
 For the purpose of funding the Agriculture and Small Business Development Authority

Personal Service	\$121,974
Expense and Equipment.	<u>80,618</u>
From General Revenue Fund	202,592

Personal Service	58,282
Expense and Equipment.	<u>22,254</u>
From Single-Purpose Animal Facilities Loan Program Fund	<u>80,536</u>
Total (Not to exceed 5.00 F.T.E.).	\$283,128

SECTION 6.012. — To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to General Revenue Fund, One Million, Eight Hundred Ninety-two Thousand, Five Hundred Forty-six Dollars (\$1,892,546) to the Missouri Qualified Fuel Ethanol Producer Incentive Fund

From General Revenue Fund	\$1,892,546
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There is hereby transferred out of the State Treasury, chargeable to the Petroleum Violation Escrow Fund, Two Million, Four Hundred Fifty Thousand Dollars (\$2,450,000) to the Missouri Qualified Fuel Ethanol Producer Incentive Fund

From Petroleum Violation Escrow Fund	<u>2,450,000</u>
Total	\$4,342,546

SECTION 6.013. — To the Department of Agriculture

For Missouri Ethanol Producer Incentive Payments
 From Missouri Qualified Fuel Ethanol Producer Incentive Fund (0 F.T.E.).

	\$4,342,546
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SECTION 6.015. — To the Department of Agriculture

For the Office of the Director
 For operational maintenance and repairs for state-owned facilities
 From Facilities Maintenance Reserve Fund (0 F.T.E.).

	\$94,689
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***SECTION 6.020.** — To the Department of Agriculture

For the Office of the Director
 For Vehicle Replacement
 Expense and Equipment

From General Revenue Fund.	\$150,000
From Agricultural Development Fund	14,074
From Animal Care Reserve Fund	95,748
From Livestock Brands Fund	16,900
From Grain Inspection Fees Fund	152,044
From Petroleum Inspection Fund.	<u>83,174</u>
Total.	\$511,940

*I hereby veto \$150,000 for the Department of Agriculture, Office of Director for vehicle replacement.

Expense and Equipment by \$150,000 from \$150,000 to \$0 in total from General Revenue Fund.

From \$511,940 to \$361,940 in total for the section.

BOB HOLDEN, Governor

***SECTION 6.030.** — To the Department of Agriculture

For the Office of the Director

For the purpose of funding research and related activities of the Food and
Agriculture Policy Research Institute (FAPRI)

From General Revenue Fund (0 F.T.E.). \$100,000

*I hereby veto \$100,000 general revenue for the Department of Agriculture for the Food and Agriculture Policy Research Institute (FAPRI). A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety.

By \$100,000 from \$100,000 to \$0 in total from General Revenue Fund.

From \$100,000 to \$0 in total for the section.

BOB HOLDEN, Governor

***SECTION 6.040.** — To the Department of Agriculture

For the Division of Market Development

Personal Service \$1,064,355

Expense and Equipment 737,481

For the Farmers Market Program 100,000

For the New Farmers Program 240,000

From General Revenue Fund 2,141,836

Personal Service 75,913

Expense and Equipment. 100,000

From Federal Funds 175,913

Personal Service

From Aquaculture Marketing Development Fund. 7,692

Total (Not to exceed 30.34 F.T.E.). \$2,325,441

*I hereby veto \$261,541 for the Department of Agriculture for the Division of Market Development, including \$100,000 for the farmers market program, \$61,541 for an international marketing specialist, and \$100,000 for a South American trade office. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Services by \$34,644 from \$1,064,355 to \$1,029,711.

Expense and Equipment by \$126,897 from \$737,481 to \$610,584.

For the Farmers Market Program by \$100,000 from \$100,000 to \$0.

From \$2,141,836 to \$1,880,295 in total from General Revenue Fund.

From \$2,325,441 to \$2,063,900 in total for the section.

BOB HOLDEN, Governor

SECTION 6.042. — There is transferred out of the State Treasury,

chargeable to the General Revenue Fund, Two Hundred Seventy

Thousand Dollars (\$270,000) to the Missouri Agricultural Products

Marketing Development Fund

From General Revenue Fund \$270,000

SECTION 6.045. — To the Department of Agriculture

For the "Agri Missouri" Marketing Program

Personal Service	\$63,575
Expense and Equipment	<u>166,845</u>
From General Revenue Fund	230,420
From Missouri Agricultural Products Marketing Development Fund	<u>270,000</u>
Total (Not to exceed 2.00 F.T.E.)	\$500,420

SECTION 6.050. — To the Department of Agriculture

For the Grape and Wine Market Development Program

Personal Service	\$68,270
Expense and Equipment	549,150
For the Governor's Conference on Agriculture expense	<u>125,000</u>
From Marketing Development Fund (Not to exceed 2.00 F.T.E.)	\$742,420

SECTION 6.055. — To the Department of Agriculture

For the Division of Market Development

For the Agriculture Development Program

Personal Service	
From General Revenue Fund	\$39,278
Personal Service	170,669
Expense and Equipment	48,422
For all moneys in the Agriculture Development Fund for investment, reinvestment, and for emergency agricultural relief and rehabilitation as provided by law	<u>500,000</u>
From Agriculture Development Fund	<u>719,091</u>
Total (Not to exceed 5.00 F.T.E.)	\$758,369

SECTION 6.060. — To the Department of Agriculture

For the Division of Animal Health

Personal Service	\$2,082,684
Expense and Equipment	<u>574,703</u>
From General Revenue Fund	2,657,387

Personal Service	200,194
Expense and Equipment	<u>275,998</u>
From Federal Funds	476,192

Personal Service	37,634
Expense and Equipment	<u>400,000</u>
From Animal Health Laboratory Fee Fund	437,634

Personal Service	230,004
Expense and Equipment	<u>90,651</u>
From Animal Care Reserve Fund	320,655

To support the Livestock Brands Program

Expense and Equipment	
From Livestock Brands Fund	41,010

For expenses incurred in regulating Missouri livestock markets	
From Livestock Sales and Markets Fees Fund	32,565
For enforcement activities related to the Livestock Dealer Law	
From Livestock Dealer Law Enforcement and Administration Fund	12,250
For processing livestock market bankruptcy claims	
From Agriculture Bond Trustee Fund	135,000
For the expenditures of contributions, gifts, and grants in support of relief efforts to reduce the suffering of abandoned animals	
From State Institutions Gift Trust Fund	5,000
Total (Not to exceed 83.00 F.T.E.).	\$4,117,693
SECTION 6.065. — To the Department of Agriculture	
For the Division of Animal Health	
For brucellosis ear tags	
From General Revenue Fund (0 F.T.E.).	\$10,925
SECTION 6.070. — To the Department of Agriculture	
For the Division of Animal Health	
For funding indemnity payments and indemnifying producers and owners of livestock and poultry for preventing the spread of disease during emergencies declared by the State Veterinarian, subject to the approval by the Department of Agriculture of a state match rate up to 50 percent	
From General Revenue Fund (0 F.T.E.).	\$10,000E
SECTION 6.085. — To the Department of Agriculture	
For the Division of Grain Inspection and Warehousing	
Personal Service	\$731,359
Expense and Equipment.	136,479
From General Revenue Fund	867,838
Personal Service	67,385
Expense and Equipment.	23,000
From Commodity Council Merchandising Fund	90,385
Personal Service	1,821,196
Expense and Equipment	312,107
Payment of Federal User Fee.	100,000
From Grain Inspection Fees Fund	2,233,303
Total (Not to exceed 79.75 F.T.E.).	\$3,191,526
SECTION 6.090. — To the Department of Agriculture	
For the Division of Grain Inspection and Warehousing	
For the Missouri Aquaculture Council	
From Aquaculture Marketing Development Fund	\$25,000E
For refunds to individuals and reimbursements to commodity councils	
From Commodity Council Merchandising Fund	85,000E

For research, promotion, and market development of apples
 From Apple Merchandising Fund 12,000E

For the Missouri Wine Marketing and Research Council
 From Missouri Wine Marketing and Research Development Fund. 15,000E
 Total (0 F.T.E.). \$137,000

SECTION 6.095. — To the Department of Agriculture

For the Division of Plant Industries

Personal Service \$1,822,835
 Expense and Equipment 267,053
 For demonstration projects that utilize renewable inputs. 102,145
 From General Revenue Fund 2,192,033

Personal Service 246,215
 Expense and Equipment. 499,453
 From Federal Funds. 745,668
 Total (Not to exceed 60.13 F.T.E.). \$2,937,701

SECTION 6.100. — To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding gypsy moth control, including education, research, and management activities, and for the receipt and disbursement of funds donated for gypsy moth control, including education, research, and management activities. Projects funded with donations, including those contributions made by supporting agencies and groups outside the Missouri Department of Agriculture, must receive prior approval from a steering committee composed of one member each from the Missouri Departments of Agriculture, Conservation, Natural Resources, and Economic Development, the United States Department of Agriculture, the Missouri wood products industry, the University of Missouri, and other groups as deemed necessary by the Gypsy Moth Advisory Council, to be co-chaired by the Departments of Agriculture and Conservation

Personal Service \$41,251
 Expense and Equipment. 50,358
 From General Revenue Fund 91,609
 From Federal Funds and Other Funds 100,000
 Total (Not to exceed 2.00 F.T.E.). \$191,609

SECTION 6.105. — To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding boll weevil suppression and eradication

Personal Service \$19,770
 Expense and Equipment 40,686
 For ongoing boll weevil suppression and eradication through a cotton growers' organization as provided in Sections 263.050 - 263.537, RSMo 622,848
 From Boll Weevil Suppression and Eradication Fund (Not to exceed .50 F.T.E.) \$683,304

SECTION 6.110. — To the Department of Agriculture

For the Division of Weights and Measures

Personal Service	\$1,190,008
Expense and Equipment.	<u>215,697</u>
From General Revenue Fund	1,405,705

Expense and Equipment	
From Federal Funds and Other Funds	26,624

Personal Service	1,184,782
Expense and Equipment.	<u>424,505</u>
From Petroleum Inspection Fund	1,609,287
Total (Not to exceed 80.00 F.T.E.).	\$3,041,616

SECTION 6.115. — To the Department of Agriculture

For the Missouri State Fair

Personal Service	\$665,212
Expense and Equipment.	<u>56,833</u>
From General Revenue Fund	722,045

Personal Service	874,743
Expense and Equipment.	<u>3,056,971</u>
From State Fair Fees Fund	<u>3,931,714</u>
Total (Not to exceed 61.75 F.T.E.).	\$4,653,759

SECTION 6.120. — To the Department of Agriculture

For cash to start the Missouri State Fair

Expense and Equipment	
From State Fair Fees Fund	\$75,000
From State Fair Trust Fund.	<u>10,000</u>
Total (0 F.T.E.).	\$85,000

SECTION 6.122. — To the Department of Agriculture

For the Missouri State Fair

For equipment replacement

Expense and Equipment	
From State Fair Fees Fund (0 F.T.E.).	\$172,062

SECTION 6.125. — To the Department of Agriculture

For the Missouri State Fair

For the Aid-to-Fairs Premiums Program for youth participants in county,
local, and district fairs

From General Revenue Fund (0 F.T.E.).	\$194,795
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SECTION 6.130. — To the Department of Agriculture

For the State Milk Board

Personal Service	\$149,496
Expense and Equipment	40,100
For Personal Service and Expense and Equipment and for contractual services with local health agencies.	<u>175,397</u>
From General Revenue Fund	364,993

Personal Service	137,323
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Expense and Equipment	232,529
For Personal Service and Expense and Equipment and for contractual services with local health agencies.. . . .	<u>1,288,970</u>
From Milk Inspection Fees Fund	1,658,822

Expense and Equipment	
From State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund	<u>8,000</u>
Total (Not to exceed 8.00 F.T.E.).. . . .	\$2,031,815

SECTION 6.200. — To the Department of Natural Resources

For the Office of the Director

Personal Service	\$236,822
Annual salary adjustment in accordance with Section 105.005, RSMo	<u>210</u>
From General Revenue Fund	237,032

Personal Service	188,839
Expense and Equipment.. . . .	<u>86,034</u>
From Federal Funds	274,873

Personal Service	145,070
Expense and Equipment.. . . .	<u>11,371</u>
From Department of Natural Resources Cost Allocation Fund	<u>156,441</u>
Total (Not to exceed 9.00 F.T.E.).. . . .	\$668,346

SECTION 6.205. — To the Department of Natural Resources

For the Division of Administrative Support

Personal Service	\$1,192,016
Expense and Equipment.. . . .	<u>172,954</u>
From General Revenue Fund	1,364,970

Personal Service	672,148
Expense and Equipment	1,145,779
For Contract Audits	<u>350,000</u>
From Federal Funds and Other Funds	2,167,927

Personal Service	34,870
Expense and Equipment.. . . .	<u>6,621</u>
From Natural Resources Revolving Services Fund	41,491

Personal Service	1,834,020
Personal Service and/or Expense and Equipment	191,523
Expense and Equipment	<u>3,184,780</u>
From Department of Natural Resources Cost Allocation Fund	<u>5,210,323</u>
Total (Not to exceed 109.23 F.T.E.).. . . .	\$8,784,711

SECTION 6.210. — To the Department of Natural Resources

For the purpose of funding agency-wide operations

For Association Dues

From General Revenue Fund	\$96,247
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Expense and Equipment

From Natural Resources Protection Fund Air Pollution Asbestos Fee	
Subaccount	96,622
Expense and Equipment	
From Soil and Water Sales Tax Fund	8,837
For State Auditor Billing	
From Federal Funds and Other Funds	35,000
Personal Service	67,219
Expense and Equipment	<u>13,778</u>
From State Highways and Transportation Department Fund	80,997
Total (Not to exceed 2.00 F.T.E.)	\$317,703

SECTION 6.213. — To the Department of Natural Resources

For all expenses related to the Lewis and Clark Bicentennial

From General Revenue fund.	\$825,000
From Intergovernmental Transfer Fund	<u>825,000</u>
Total (Not to exceed 2.00 F.T.E.)	\$1,650,000

SECTION 6.215. — To the Department of Natural Resources

For the Board for the Petroleum Storage Tank Insurance Fund

For the general administration of the fund and the responsibility for the proper operations of the fund for all activities authorized under Section 319.129, RSMo

Personal Service	\$119,011
Expense and Equipment	2,559,300
For the purpose of funding the refunds of erroneously collected receipts	10,000E
For the purpose of funding claims related to Petroleum Storage Tank Insurance	<u>24,990,000E</u>
From Petroleum Storage Tank Insurance Fund (Not to exceed 3.00 F.T.E.)	\$27,678,311

SECTION 6.220. — To the Department of Natural Resources

For the Energy Center

Personal Service	
From General Revenue Fund	\$49,460
Personal Service	611,369
Expense and Equipment	<u>136,517</u>
From Federal Funds	747,886
Personal Service	80,447
Expense and Equipment	<u>7,400</u>
From Department of Natural Resources Cost Allocation Fund	87,847
Personal Service	486,441
Expense and Equipment	<u>74,495</u>
From Energy Set-Aside Program Fund	560,936
Personal Service	200,373

Expense and Equipment.	<u>66,728</u>
From Petroleum Violation Escrow Interest Subaccount Fund, Federal	
Funds and Other Funds.	<u>267,101</u>
Total (Not to exceed 35.73 F.T.E.).	\$1,713,230

SECTION 6.225. — To the Department of Natural Resources

For the Energy Center

For the purpose of funding the promotion of energy efficiency, renewable energy, and energy efficient state government

From Federal Funds.	\$2,784,474E
From Utilicare Stabilization Fund	100E
From Energy Set-Aside Program Fund	5,500,000E
From Petroleum Violation Escrow Fund	430,000
From Missouri Alternative Fuel Vehicle Loan Fund.	<u>300,000</u>
Total (0 F.T.E.).	\$9,014,574

SECTION 6.226. — To the Department of Natural Resources

For the Energy Center

There is transferred out of the State Treasury, chargeable to the Petroleum Violation Escrow Fund, Four Hundred Eighty- Seven Thousand, Five Hundred Dollars (\$487,500) to the Petroleum Violation Escrow Interest Subaccount Fund

From Petroleum Violation Escrow Fund.	\$487,500E
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SECTION 6.228. — To the Department of Natural Resources

There is transferred out of the State Treasury, chargeable to the Petroleum Violation Escrow Fund, Three Hundred Thousand Dollars (\$300,000) to the Missouri Alternative Fuel Vehicle Loan Fund

From Petroleum Violation Escrow Fund.	\$300,000
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SECTION 6.230. — To the Department of Natural Resources

For the State Environmental Improvement and Energy Resources Authority

For all costs incurred in the operation of the authority, including special studies

From State Environmental Improvement and Energy Resources

Authority Fund (0 F.T.E.).	\$1E
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SECTION 6.235. — To the Department of Natural Resources

For the Division of State Parks

For Field Operations, and Administration and Support

Personal Service	\$581,686
Expense and Equipment.	<u>214,377</u>
From General Revenue Fund	796,063

Personal Service	426,835
Expense and Equipment.	<u>107,831</u>
From Federal Funds	534,666

Personal Service	842,696
Expense and Equipment.	<u>1,389,473</u>
From State Park Earnings Fund	2,232,169

Personal Service	55,504
Expense and Equipment.	<u>1,000,000</u>
From Historic Preservation Revolving Fund	1,055,504
Personal Service	1,046,278
Expense and Equipment.	<u>140,229</u>
From Department of Natural Resources Cost Allocation Fund	1,186,507
Personal Service	256,740
Expense and Equipment.	<u>111,327</u>
From State Facility Maintenance and Operation Fund	368,067
Personal Service	18,062,787
Personal Service and/or Expense and Equipment	296,000
Expense and Equipment	6,959,625
For payments to levee districts	<u>1E</u>
From Parks Sales Tax Fund	25,318,413
Personal Service	10,893
Expense and Equipment.	<u>600</u>
From Meramec-Onondaga State Parks Fund	11,493
Personal Service	212,177
Expense and Equipment.	<u>106,579</u>
From Babler State Park Fund	<u>318,756</u>
Total (Not to exceed 775.82 F.T.E.).	\$31,821,638

SECTION 6.240. — To the Department of Natural Resources

For the Division of State Parks

For the Bruce R. Watkins Cultural Heritage Center

From Parks Sales Tax Fund (0 F.T.E.). \$100,000

SECTION 6.245. — To the Department of Natural Resources

For the Division of State Parks

For the payment to counties in lieu of 2001 and prior years real property taxes, as appropriate, on lands acquired by the department after July 1, 1985 for park purposes and not more than the amount of real property tax imposed by political subdivisions at the time acquired, in accordance with the provisions of Section 47(a) of the Constitution of Missouri

From Parks Sales Tax Fund (0 F.T.E.). \$40,000E

SECTION 6.250. — To the Department of Natural Resources

For the Division of State Parks

For Parks and Historic Sites

For recoupments and donations that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than \$500,000 requires the approval of the chairperson or designee of both Senate Appropriations and House Budget committees

From State Park Earnings Fund (0 F.T.E.). \$100,000E

SECTION 6.255. — To the Department of Natural Resources

For the Division of State Parks

Expense and Equipment - for equipment replacement with up to five percent available for major servicing and repair of heavy equipment only

From State Park Earnings Fund	\$2,147,500
From Meramec-Onondaga State Parks Fund.	5,000
Total (0 F.T.E.).	\$2,152,500

SECTION 6.260. — To the Department of Natural Resources

For the Division of State Parks

For the purchase of publications, souvenirs, and other items for resale at state parks and state historic sites

Expense and Equipment

From State Park Earnings Fund (0 F.T.E.). \$300,000E

SECTION 6.265. — To the Department of Natural Resources

For the Division of State Parks

For all expenses incurred in the operation of state park concessions projects or facilities when such operations are assumed by the Department of Natural Resources

From State Park Earnings Fund (0 F.T.E.). \$200,000E

SECTION 6.267. — To the Department of Natural Resources

For the Division of State Parks

For the Historic Preservation Program

For the purpose of funding a grant for research and other expenses associated with the State Capitol book project

From General Revenue Fund. \$25,000

***SECTION 6.268.** — To the Department of Natural Resources

For the Division of State Parks

For the expenditure of a matching grant to the Cardiff Hill Park historic project

From General Revenue Fund. \$75,000

*I hereby veto \$75,000 for the Department of Natural Resources for the Cardiff Hill Park Historic Project. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety.

For the expenditures of a matching grant to the Cardiff Hill Park Historic Project by \$75,000 from \$75,000 to \$0.

From \$75,000 to \$0 in total from General Revenue Fund.

From \$75,000 to \$0 in total for the section.

BOB HOLDEN, Governor

***SECTION 6.269.** — There is transferred out of the State Treasury, chargeable to the General Revenue fund, Four Hundred Sixty-three Thousand, Nine Hundred Ninety-one Dollars (\$463,991) to the

Historic Preservation Revolving Fund, as authorized by Section
143.183, RSMo
From General Revenue Fund. \$463,991

*I hereby veto \$31,153 general revenue transfer to the Historic Preservation Revolving Fund. The veto maintains the distribution ratio of taxes paid by non-resident athletes and entertainers as established by Section 143.183, RSMO. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$31,153 from \$463,991 to \$432,838 in total from General Revenue Fund.
From \$463,991 to \$432,838 in total for the section.

BOB HOLDEN, Governor

SECTION 6.270. — To the Department of Natural Resources
For the Division of State Parks
For Administration and Support
For historic restoration grants
From Federal Funds (0 F.T.E.). \$500,000

SECTION 6.275. — To the Department of Natural Resources
For the Division of State Parks
For the expenditure of grants to state parks
From Federal Funds and Other Funds (0 F.T.E.). \$350,000

SECTION 6.280. — To the Department of Natural Resources
For the Division of State Parks
For matching grants for Landmark Local Parks. \$2,200,000
For matching grants for Local Parks 1,100,000
From General Revenue Fund (0 F.T.E.). \$3,300,000

SECTION 6.285. — To the Department of Natural Resources
For the Division of State Parks
For Administration and Support
For grants-in-aid from the Land and Water Conservation Fund and other
funds to state agencies and political subdivisions for outdoor recrea-
tion projects
From Federal Funds (0 F.T.E.). \$2,324,034

SECTION 6.290. — To the Department of Natural Resources
For the Division of Geology and Land Survey
For operational maintenance and repairs for state-owned facilities
From Facilities Maintenance Reserve Fund (0 F.T.E.). \$8,759

SECTION 6.295. — To the Department of Natural Resources
For the Division of Geology and Land Survey
Personal Service \$2,424,249
Personal Service and/or Expense and Equipment 54,283
Expense and Equipment. 537,075
From General Revenue Fund 3,015,607

Personal Service 2,586,515

Expense and Equipment.	<u>915,108</u>
From Federal Funds and Other Funds	<u>3,501,623</u>
Total (Not to exceed 139.06 F.T.E.).	\$6,517,230

SECTION 6.296. — To the Department of Natural Resources

For the Division of Geology and Land Survey

For expenditures in accordance with the provisions of Section 259.190,

RSMo

From Oil and Gas Remedial Fund (0 F.T.E.).	\$23,000E
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SECTION 6.297. — To the Department of Natural Resources

For the Division of Geology and Land Survey

For surveying corners and for records restoration

From Federal Funds and Other Funds (0 F.T.E.).	\$240,000
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SECTION 6.300. — To the Department of Natural Resources

For the Division of Environmental Quality

Personal Service	\$6,754,680
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Expense and Equipment.	<u>1,809,248</u>
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From General Revenue Fund	<u>8,563,928</u>
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Personal Service	28,581,227
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Expense and Equipment.	<u>11,878,947</u>
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From Federal Funds and Other Funds.	<u>40,460,174</u>
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Total (Not to exceed 962.00 F.T.E.).	\$49,024,102
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SECTION 6.302. — There is transferred out of the State Treasury,
chargeable to the General Revenue fund, Three Hundred Thousand
Dollars (\$300,000) to the Hazardous Waste Remedial Fund

From General Revenue Fund.	\$300,000
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SECTION 6.305. — To the Department of Natural Resources

For the Division of Environmental Quality

For the purpose of funding a motor vehicle emissions program

Personal Service	\$713,417
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Expense and Equipment.	<u>725,030</u>
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From Missouri Air Emission Reduction Fund, Federal Funds, and	
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Other Funds, excluding General Revenue Fund (Not to exceed	
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22.00 F.T.E.).	\$1,438,447
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SECTION 6.308. — To the Department of Natural Resources

For the Division of Environmental Quality

For the purpose of funding the operation of a vehicle emission inspection

maintenance facility in South County St. Louis

From Federal Funds, Natural Resources Protection Fund - Air Pollution

Permit Fee Subaccount, and Other Funds (0 F.T.E.).	\$630,000
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SECTION 6.310. — To the Department of Natural Resources

For the Division of Environmental Quality

For contracts for the analysis of hazardous waste samples

From Federal Funds.	\$100,000
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From Hazardous Waste Remedial Fund and/or Hazardous Waste Fund.	<u>60,210</u>
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Total (0 F.T.E.)..... \$160,210

SECTION 6.315. — To the Department of Natural Resources

For the Division of Environmental Quality

For the environmental emergency response system

Expense and Equipment

From Hazardous Waste Fund \$30,000E

From Federal Funds 250,000

For cleanup of controlled substances

From Federal Funds 125,000E

From Controlled Substances Cleanup Fund 125,000

Total (0 F.T.E.)..... \$530,000

SECTION 6.320. — To the Department of Natural Resources

For the Division of Environmental Quality

For emergency response loans in accordance with Section 260.546,

RSMo

Expense and Equipment

From Hazardous Waste Fund (0 F.T.E.). \$150,000

SECTION 6.325. — To the Department of Natural Resources

For the Division of Environmental Quality

For the cleanup of leaking underground storage tanks

From Federal Funds (0 F.T.E.). \$400,000

SECTION 6.330. — To the Department of Natural Resources

For the Division of Environmental Quality

For grants and contracts to study or reduce water pollution, improve

ground water and/or surface water quality, for grants to colleges for

wastewater operator training, and for grants for lake restoration

From Federal Funds. \$1,444,925E

From Natural Resources Protection Fund - Water Pollution Permit

Fee Subaccount. 50,000

Total (0 F.T.E.)..... \$1,494,925

SECTION 6.335. — To the Department of Natural Resources

For the Division of Environmental Quality

For drinking water sampling, analysis, and public drinking water quality

and treatment studies

From Safe Drinking Water Fund (0 F.T.E.). \$296,444

SECTION 6.340. — To the Department of Natural Resources

For the Division of Environmental Quality

For the state's share of construction grants for wastewater treatment

facilities

From Water Pollution Control Fund \$3,000,000

For closure of concentrated animal feeding operations

From Concentrated Animal Feeding Operation Indemnity Fund 100,000

Total (0 F.T.E.)..... \$3,100,000

SECTION 6.344. — There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Fund, Ten Million, Six
Hundred Thousand Dollars (\$10,600,000) to the Water and Waste-
water Loan Fund and/or the Water and Wastewater Loan Revolving
Fund
From Water Pollution Control Fund \$10,600,000

SECTION 6.345. — To the Department of Natural Resources
For the Division of Environmental Quality
For loans for wastewater treatment facilities pursuant to Sections 644.026-
644.124, RSMo
From Water and Wastewater Loan Fund and/or Water and Wastewater
Loan Revolving Fund (0 F.T.E.). \$60,000,000

SECTION 6.350. — To the Department of Natural Resources
For the Division of Environmental Quality
For loans for drinking water systems pursuant to Sections 644.026-
644.124, RSMo
From General Revenue Fund \$2,476,350
From Water and Wastewater Loan Fund 22,000,000
Total (0 F.T.E.). \$24,476,350

SECTION 6.355. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Clean Water Commission
For stormwater control grants or loans
From Stormwater Control Fund (0 F.T.E.). \$20,000,000

SECTION 6.360. — To the Department of Natural Resources
For the Division of Environmental Quality
For rural sewer and water grants and loans
From Water Pollution Control Fund (0 F.T.E.). \$20,660,000

SECTION 6.365. — To the Department of Natural Resources
For the Division of Environmental Quality
For contracting for permit application and supporting document reviews
From Federal Funds and Other Funds (0 F.T.E.). \$675,000

SECTION 6.370. — To the Department of Natural Resources
For the Division of Environmental Quality
For grants to local air pollution control agencies and for grants to organiza-
tions for air pollution
From Federal Funds. \$1,340,500
From Natural Resources Protection Fund - Air Pollution Permit Fee
Subaccount 1,952,000

For asbestos grants to local air pollution control agencies
From Natural Resources Protection Fund - Air Pollution Asbestos Fee
Subaccount 150,000
Total (0 F.T.E.). \$3,442,500

SECTION 6.372. — To the Department of Natural Resources

For the Division of Environmental Quality
 For low-income emission repairs
 From General Revenue Fund (0 F.T.E.). \$250,000

SECTION 6.375. — To the Department of Natural Resources

For the Division of Environmental Quality
 For the receipt and expenditure of bond forfeiture funds for the
 reclamation of mined land
 From Mined Land Reclamation Fund (0 F.T.E.).. . . . \$1,400,000

SECTION 6.380. — To the Department of Natural Resources

For the Division of Environmental Quality
 For the reclamation of mined lands under the provisions of Section
 444.960, RSMo
 From Coal Mine Land Reclamation Fund (0 F.T.E.).. . . . \$1,000,000

SECTION 6.385. — To the Department of Natural Resources

For the Division of Environmental Quality
 For the reclamation of abandoned mined lands
 From Federal Funds (0 F.T.E.). \$3,500,000

SECTION 6.390. — To the Department of Natural Resources

For the Division of Environmental Quality
 For contracts for hydrologic studies to assist small coal operators to meet
 permit requirements
 From Federal Funds (0 F.T.E.). \$50,000

SECTION 6.395. — To the Department of Natural Resources

For the Division of Environmental Quality
 For grants to local soil and water conservation districts
 From Soil and Water Sales Tax Fund (0 F.T.E.).. . . . \$7,161,992

SECTION 6.400. — To the Department of Natural Resources

For the Division of Environmental Quality
 For demonstration projects related to soil and water conservation
 From Federal Funds. \$100,000

For soil and water conservation cost-share grants
 From Soil and Water Sales Tax Fund. 20,000,000
 Total (0 F.T.E.).. . . . \$20,100,000

SECTION 6.405. — To the Department of Natural Resources

For the Division of Environmental Quality
 For a loan interest-share program
 From Soil and Water Sales Tax Fund (0 F.T.E.).. . . . \$800,000

SECTION 6.410. — To the Department of Natural Resources

For the Division of Environmental Quality
 For a special area land treatment program
 From Soil and Water Sales Tax Fund (0 F.T.E.).. . . . \$6,896,200

SECTION 6.415. — To the Department of Natural Resources

For the Division of Environmental Quality
 For grants to colleges and universities for research projects on soil erosion
 and conservation
 From Soil and Water Sales Tax Fund (0 F.T.E.). \$160,000

SECTION 6.420. — To the Department of Natural Resources

For the Division of Environmental Quality
 For the cleanup of hazardous waste sites
 From Federal Funds and Other Funds.. . . . \$1,000,000E
 From Hazardous Waste Remedial Fund. 21,274E
 Total (0 F.T.E.). \$1,021,274E

SECTION 6.425. — To the Department of Natural Resources

For the Division of Environmental Quality
 For implementation provisions of Solid Waste Management Law in
 accordance with Sections 260.250, RSMo through 260.345, RSMo
 and Section 260.432, RSMo
 From Solid Waste Management Fund. \$6,300,000
 From Solid Waste Management Fund - Scrap Tire Subaccount. 1,637,000
 Total (0 F.T.E.). \$7,937,000

SECTION 6.430. — To the Department of Natural Resources

For the Division of Environmental Quality
 For expenditures of payments received for damages to the state's natural
 resources
 From Natural Resources Protection Fund - Damages Subaccount or
 Natural Resources Protection Fund - Water Pollution Permit Fee
 Subaccount \$269,711E

For funding expenditures of forfeited financial assurance instruments to
 ensure proper closure and post closure of solid waste landfills, with
 General Revenue Fund expenditures to not exceed collections
 pursuant to Section 260.228, RSMo
 From General Revenue Fund 74,519E
 From Post Closure Fund. 141,599E
 Total (0 F.T.E.). \$485,829E

SECTION 6.435. — To the Department of Natural Resources

For the Division of Environmental Quality
 For the purpose of funding environmental education and technical
 assistance grants
 From Federal Funds (0 F.T.E.). \$125,000

SECTION 6.440. — To the Department of Natural Resources

For revolving services
 Expense and Equipment
 From Natural Resources Revolving Services Fund (0 F.T.E.). \$2,644,470

SECTION 6.445. — To the Department of Natural Resources

For the purpose of funding the refund of erroneous collected receipts
 From any funds administered by the Department of Natural Resources
 except General Revenue Fund (0 F.T.E.). \$250,000E

SECTION 6.450. — To the Department of Natural Resources

For sales tax on retail sales

From any funds administered by the Department of Natural Resources

except General Revenue Fund (0 F.T.E.). \$235,000E

SECTION 6.455. — To the Department of Natural Resources

For minority and under-represented student scholarships

From General Revenue Fund \$50,000

From Recruitment and Retention Scholarship Fund 50,000E

Total (0 F.T.E.). \$100,000

SECTION 6.460. — There is transferred out of the State Treasury to the

DNR Cost Allocation Fund

From Missouri Air Emission Reduction Fund \$241,599

From Solid Waste Management Fund 265,435

From Metallic Minerals Waste Management Fund 18,049

From Water and Wastewater Loan Fund 151,020

From Hazardous Waste Remedial Fund 500,392

From State Park Earnings Fund 761,678

From Historic Preservation Revolving Fund 38,604

From Natural Resources Protection Fund 3,987

From Natural Resources Protection Fund - Water Pollution Permit Fee

Subaccount 688,324

From Solid Waste Management Fund - Scrap Tire Subaccount 79,714

From Natural Resources Protection Fund - Air Pollution Asbestos Fee

Subaccount 44,445

From Petroleum Storage Tank Insurance Fund 339,499

From Underground Storage Tank Regulation Program Fund 47,284

From Natural Resources Protection Fund - Air Pollution Permit Fee Subaccount . . . 953,744

From Parks Sales Tax Fund 4,154,780

From Soil and Water Sales Tax Fund 664,516

From Groundwater Protection Fund 69,475

From Energy Set-Aside Program Fund 170,033

From State Land Survey Program Fund 304,987

From Hazardous Waste Fund 240,517

From Safe Drinking Water Fund 462,665

From Missouri Air Pollution Control Fund 28,627

From Petroleum Violation Escrow Interest Subaccount Fund. 85,759

Total \$10,315,133

SECTION 6.600. — To the Department of Conservation

For Personal Service and Expense and Equipment, including refunds; and

for payments to counties for the unimproved value of land in lieu of

property taxes for privately owned lands acquired by the Conservation

Commission after July 1, 1977 and for lands classified as forest

croplands

From Conservation Commission Fund (Not to exceed 1,871.61

F.T.E.). \$125,071,345

Bill Totals

General Revenue. \$37,923,022

Federal Funds. 38,672,359

Other Funds.....	421,411,700
Total.....	\$498,007,081

Approved June 22, 2001

HB 7 [CCS SCS HCS HB 7]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF ECONOMIC DEVELOPMENT, DEPARTMENT OF INSURANCE AND DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, and Department of Labor and Industrial Relations, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 7.005. — To the Department of Economic Development

For general administration of Administrative Services

Personal Service.....	\$1,449,510
Annual salary adjustment in accordance with Section 105.005, RSMo.....	210
Personal Service and/or Expense and Equipment.....	161,057
Expense and Equipment.....	795,102
From General Revenue Fund.....	2,405,879

Personal Service.....	3,332,438
Personal Service and/or Expense and Equipment.....	370,271
Expense and Equipment.....	1,858,666
From Federal Funds.....	5,561,375

Personal Service.....	1,103,169
Personal Service and/or Expense and Equipment.....	122,574
Expense and Equipment.....	2,071,592
For refunds.....	5,000E
From Department of Economic Development Administrative Fund.....	3,302,335
Total (Not to exceed 175.07 F.T.E.).....	\$11,269,589

SECTION 7.010. — To the Department of Economic Development

For the Missouri WORKS Program

Personal Service.....	\$498,118
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Personal Service and/or Expense and Equipment	55,346
Expense and Equipment	<u>144,707</u>
From General Revenue Fund (Not to exceed 14.00 F.T.E.)	\$698,171

SECTION 7.015. — To the Department of Economic Development

There is transferred, for mailroom and support services, administrative services, rent for state office buildings by the Department of Economic Development, and information systems, the following amounts to the Department of Economic Development Administrative Fund

From Federal Funds.	\$247,990
From Division of Tourism Supplemental Revenue Fund	159,347
From State Highways and Transportation Department Fund	124,715
From Railroad Expense Fund	20,774
From Division of Finance Fund	80,504
From Division of Credit Unions Fund	32,588
From Manufactured Housing Fund	11,065
From Public Service Commission Fund	208,224
From Professional Registration Fees Fund.	<u>593,586</u>
Total	\$1,478,793

***SECTION 7.020.** — To the Department of Economic Development

For general administration of Business Development activities

Personal Service	\$881,656
Expense and Equipment	2,090,557
For the purpose of funding a research park on Ft. Leonard Wood.	<u>1,000,000</u>
From General Revenue Fund	3,972,213

Personal Service

From Federal Funds and Other Funds	62,381
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Personal Service 87,269

Expense and Equipment. 25,600

From Department of Economic Development Administrative Fund	112,869
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Expense and Equipment

From International Promotions Revolving Fund	75,000E
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Personal Service

From Missouri Technology Investment Fund	53,024
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For the Business Extension Service Team Program

From Business Extension Service Team Fund	1,854,000
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For the Electronic Materials Applied Resource Center

From Missouri Technology Investment Fund	147,000
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For the National Institute of Standards/Missouri Manufacturing Extension

Partnership

All Expenditures

From Federal Funds	2,200,000E
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From Private Contributions	2,600,000E
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From Missouri Technology Investment Fund	2,119,950
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For the fruit and vegetable experiment station at Southwest Missouri
 State University in Mountain Grove. 200,000
 For the Soy Diesel Project at the University of Missouri-Rolla 200,000

For Small Business Development Centers 549,000
 For Innovation Centers and Centers for Advanced Technology 1,848,652
 From Missouri Technology Investment Fund 2,797,652
 Total (Not to exceed 28.75 F.T.E.) \$15,994,089

*I hereby veto \$749,000 including \$200,000 for the fruit and vegetable experiment station at Southwest Missouri State University in Mountain Grove and \$549,000 for Small Business Development Centers. This represents the spending authority for section 7.030. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the fruit and vegetable experiment station at Southwest Missouri State University in Mountain Grove by \$200,000 from \$200,000 to \$0.
 For Small Business Development Centers by \$549,000 from \$549,000 to \$0.
 From \$2,797,652 to \$2,048,652 from Missouri Technology Investment Fund.
 From \$15,994,089 to \$15,245,089 in total for the section.

BOB HOLDEN, Governor

SECTION 7.025. — To the Department of Economic Development
 There is transferred out of the State Treasury, chargeable to the General
 Revenue Fund, One Hundred Sixty Thousand Dollars (\$160,000) to
 the Business Extension Service Team Fund
 From General Revenue Fund. \$160,000

***SECTION 7.030.** — To the Department of Economic Development
 There is transferred out of the State Treasury, chargeable to the General
 Revenue Fund, Four Million, Nine Hundred Fourteen Thousand, Six
 Hundred Fifty-two Dollars (\$4,914,652) to the Missouri Technology
 Investment Fund, for the Electronic Materials Applied Research
 Center, National Institute of Standards/Missouri Manufacturing
 Extension Partnership, Small Business Development Centers,
 Innovation Centers, and Centers for Advanced Technology
 From General Revenue Fund \$4,914,652

There is transferred out of the State Treasury, chargeable to the Petroleum
 Violators Escrow Account Fund, Two Hundred Thousand Dollars
 (\$200,000) to the Missouri Technology Investment Fund for Centers
 for Advance Technology
 From Petroleum Violators Escrow Account Fund 200,000
 Total. \$5,114,652

*I hereby veto \$749,000 general revenue transfer to the Missouri Technology Investment Fund. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$749,000 from \$4,914,652 to \$4,165,652 in total from General Revenue Fund.
 From \$5,114,652 to \$4,365,652 in total for the section.

BOB HOLDEN, Governor

SECTION 7.035. — To the Department of Economic Development

For general administration of Business Expansion and Attraction activities

Personal Service.....	\$1,347,578
Personal Service and/or Expense and Equipment	149,731
Expense and Equipment	<u>1,832,617</u>
From General Revenue Fund	3,329,926

Personal Service	65,720
Expense and Equipment.	<u>6,974</u>
From Federal Funds	72,694

Personal Service	
From Federal Funds and Other Funds	84,016

Personal Service	259,570
Expense and Equipment.	<u>88,389</u>
From Missouri Job Development Fund	347,959

For the Brownfields Redevelopment Program

From Property Reuse Fund.	<u>5,400,000</u>
Total (Not to exceed 52.00 F.T.E.).	\$9,234,595

SECTION 7.040. — To the Department of Economic Development

For the Missouri Community College New Jobs Training Program

For funding training of workers by community college districts

From Missouri Community College Job Training Program Fund

(0 F.T.E.). \$18,000,000

SECTION 7.045. — To the Department of Economic Development

For funding new and expanding industry training programs and basic industry retraining programs

From Missouri Job Development Fund (0 F.T.E.). \$13,267,500

SECTION 7.050. — To the Department of Economic Development

There is transferred out of the State Treasury, chargeable to the General

Revenue Fund, Thirteen Million, Two Hundred Sixty-seven

Thousand, Five Hundred Dollars (\$13,267,500) to the Missouri Job

Development Fund

From General Revenue Fund

From General Revenue Fund \$2,973,147

SECTION 7.060. — To the Department of Economic Development

For Missouri supplemental tax increment financing as provided in Section 99.845, RSMo. This appropriation may be used for the following projects: Kansas City Midtown, Excelsior Springs Elms Hotel, Independence Santa Fe Trail Neighborhood, St. Louis City Convention Hotel, and Cupples Station. In accordance with Section 99.845, RSMo, the appropriation shall not be made unless the applications for the projects have been approved by the Director of the Department of Economic Development and the Commissioner of the Office of Administration

From Missouri Supplemental Tax Increment Financing Fund (0 F.T.E.). \$2,973,147

SECTION 7.065. — To the Department of Economic Development

For general administration of Community Development activities

Personal Service	\$1,300,841
Expense and Equipment.	<u>648,491</u>
From General Revenue Fund	1,949,332

Personal Service	536,824
Expense and Equipment.	<u>411,983</u>
From Federal Funds	948,807

For the Missouri Main Street Program

From Missouri Main Street Program Fund 100,000

For Community Development programs

From Federal Funds 28,000,000E

For the Missouri Community Services Commission

Personal Service	
From General Revenue Fund	48,509

Personal Service	100,238
Expense and Equipment	<u>2,513,300E</u>
From Federal Funds and Other Funds	2,613,538

For Community Development Corporations, job training, or retraining activities

Personal Service	51,703
Expense and Equipment.	<u>1,730,637</u>
From General Revenue Fund	1,782,340

For Community Development Corporations, job training, or retraining activities

From Federal Funds and Other Funds	250,000
From Department of Economic Development Administrative Fund	250,000

For the Youth Opportunities and Violence Prevention Program

From Youth Opportunities and Violence Prevention Fund	<u>250,000</u>
Total (Not to exceed 57.75 F.T.E.).	\$36,192,526

SECTION 7.070. — To the Department of Economic Development
For the Missouri Rural Opportunities Council

Personal Service	\$73,108
Expense and Equipment and/or Program Distribution.	<u>116,112</u>
From Federal Funds (Not to exceed 2.00 F.T.E.).	\$189,220

SECTION 7.075. — To the Department of Economic Development
For Rural Development grants

From General Revenue Fund (0 F.T.E.).	\$512,500
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SECTION 7.080. — To the Department of Economic Development
There is transferred out of the State Treasury, chargeable to the General
Revenue Fund, One Hundred Thousand Dollars (\$100,000) to the
Missouri Main Street Program Fund

From General Revenue Fund	\$100,000
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SECTION 7.085. — To the Department of Economic Development
For the Missouri State Council on the Arts

Personal Service	\$344,751
Expense and Equipment.	<u>5,242,793</u>
From General Revenue Fund	5,587,544

Personal Service	253,777
Expense and Equipment.	<u>699,021</u>
From Federal Funds	952,798

Personal Service	89,420
Expense and Equipment.	<u>1,271,000</u>
From Missouri Arts Council Trust Fund	1,360,420

For the Missouri State Council on the Arts
For the Missouri Humanities Council

From General Revenue Fund	300,000
From Federal Funds.	<u>532,000</u>
Total (Not to exceed 18.00 F.T.E.).	\$8,732,762

***SECTION 7.090.** — To the Department of Economic Development

There is transferred out of the State Treasury, chargeable to the General
Revenue Fund, Two Million, Seven Hundred Eighty-three Thousand,
Nine Hundred Forty-four Dollars (\$2,783,944) to the Missouri Arts
Council Trust Fund as authorized by Sections 185.100 and 143.183,
RSMo

From General Revenue Fund	\$2,783,944
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*I hereby veto \$186,914 general revenue transfer to the Missouri Arts Council Trust Fund. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources. The veto maintains the distribution ratio of taxes paid by non-resident athletes and entertainers as established by Section 143.183 RSMO.

By \$186,914 from \$2,783,944 to \$2,597,030 in total from General Revenue Fund.
From \$2,783,944 to \$2,597,030 in total for the section.

BOB HOLDEN, Governor

***SECTION 7.095.** — To the Department of Economic Development

There is transferred out of the State Treasury chargeable to the General Revenue Fund, Four Hundred Sixty-three Thousand, Nine Hundred Ninety-one Dollars (\$463,991) to the Missouri Humanities Council Trust Fund as authorized by Section 186.065 RSMo

From General Revenue Fund..... \$463,991

*I hereby veto \$31,153 general revenue transfer to the Missouri Humanities Council Trust Fund. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources. The veto maintains the distribution ratio of taxes paid by non-resident athletes and entertainers as established by Section 143.183 RSMO.

By \$31,153 from \$463,991 to \$432,838 in total from General Revenue fund.

From \$463,991 to \$432,838 in total for the section.

BOB HOLDEN, Governor

SECTION 7.100. — To the Department of Economic Development

For general administration of Workforce Development activities

For the Division of Workforce Development

Personal Service	\$42,742
Expense and Equipment.....	38,777
From General Revenue Fund	81,519

Personal Service	19,355,460
Expense and Equipment.....	3,331,244
From Federal Funds	22,686,704
Total (Not to exceed 606.22 F.T.E.).....	\$22,768,223

SECTION 7.105. — To the Department of Economic Development

For job training and related activities

From Federal Funds and Other Funds..... \$71,450,000

For administration of programs authorized and funded by the United States

Department of Labor, such as Trade Adjustment Assistance (TAA),

and provided that all funds shall be expended from discrete accounts

and that no monies shall be expended for funding administration of

these programs by the Division of Workforce Development

From Federal Funds.	6,000,000
Total (0 F.T.E.).	\$77,450,000

SECTION 7.110. — To the Department of Economic Development

For the Missouri Women's Council

Personal Service	\$110,304
Expense and Equipment.....	54,403
From General Revenue Fund (Not to exceed 3.00 F.T.E.).	\$164,707

SECTION 7.115. — To the Department of Economic Development

For the Caring Communities Program

From General Revenue Fund

\$72,500

From Federal Funds.	166,667
Total (0 F.T.E.).	\$239,167

SECTION 7.120. — To the Department of Economic Development
 For the purchase and renovation of buildings, land, and erection of
 buildings
 From Special Employment Security Fund (0 F.T.E.). \$216,000

***SECTION 7.125.** — To the Department of Economic Development
 For the Division of Tourism to include coordination of advertising of at
 least \$70,000 for the Missouri State Fair
 Personal Service \$1,416,455
 Expense and Equipment. 16,982,630
 From Division of Tourism Supplemental Revenue Fund 18,399,085

Expense and Equipment	
From Tourism Marketing Fund	15,000
Total (Not to exceed 44.00 F.T.E.).	\$18,414,085

*I hereby veto \$50,000 from the Department of Economic Development Tourism Supplemental Revenue Fund for the Black World History Wax Museum. Funding for special projects should be sought through the Tourism Commission and the Division of Tourism. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by \$50,000 from \$16,982,630 to \$16,932,630.
 From \$18,399,085 to \$18,349,085 in total from Tourism Supplemental Revenue Fund.
 From \$18,414,085 to \$18,364,085 in total for the section.

BOB HOLDEN, Governor

SECTION 7.130. — To the Department of Economic Development
 There is transferred out of the State Treasury, chargeable to the General
 Revenue Fund, Seventeen Million, Five Hundred Fifty Thousand,
 Two Hundred Eighty-two Dollars (\$17,550,282) to the Division of
 Tourism Supplemental Revenue Fund
 From General Revenue Fund \$17,550,282

SECTION 7.135. — To the Department of Economic Development
 For general administration of Affordable Housing activities
 For the Missouri Housing Development Commission
 For funding house subsidy grants or loans
 From Missouri Housing Trust Fund (0 F.T.E.). \$3,500,000E

SECTION 7.140. — To the Department of Economic Development
 For Manufactured Housing
 Personal Service \$336,548
 Expense and Equipment 171,323
 For Manufactured Housing programs 7,935E
 For refunds 10,000E
 From Manufactured Housing Fund (Not to exceed 11.00 F.T.E.). \$525,806

SECTION 7.145. — To the Department of Economic Development

For general administration of Financial Institution Safety and Soundness activities

For Division of Credit Unions

Personal Service \$711,437

Expense and Equipment 120,925

From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.). \$832,362

SECTION 7.150. — To the Department of Economic Development

For Division of Finance

Personal Service \$4,353,495

Expense and Equipment 832,325

From Division of Finance Fund (Not to exceed 100.15 F.T.E.). \$5,185,820

SECTION 7.155. — To the Department of Economic Development

There is transferred out of the Division of Savings and Loan Supervision Fund, Thirty-nine Thousand, Four Hundred Dollars (\$39,400) to the Division of Finance Fund, for the purpose of supervising state chartered savings and loan associations

From Division of Savings and Loan Supervision Fund \$39,400E

SECTION 7.160. — To the Department of Economic Development

There is transferred out of the Division of Finance Fund, One Million, Forty-nine Thousand, Seven Hundred Twenty-three Dollars (\$1,049,723) to the General Revenue Fund in accordance with Section 33.080, RSMo

From Division of Finance Fund \$1,049,723E

SECTION 7.165. — To the Department of Economic Development

There is transferred out of the Division of Savings and Loan Supervision Fund, Six Thousand Nine Hundred Nine Dollars (\$6,909) to the General Revenue Fund in accordance with Section 33.080, RSMo

From Division of Finance Fund \$6,909E

SECTION 7.170. — To the Department of Economic Development

There is transferred out of the Residential Mortgage Licensing Fund, One Hundred Fifty Thousand Dollars (\$150,000) to the Division of Finance Fund, for the purpose of administering the Residential Mortgage Licensing Law

From Residential Mortgage Licensing Fund \$150,000E

SECTION 7.175. — To the Department of Economic Development

For the Division of Motor Carrier and Railroad Safety

Personal Service \$408,400

Expense and Equipment 470,233

From Federal Funds 878,633

Personal Service 2,073,420

Expense and Equipment 831,315

From State Highways and Transportation Department Fund 2,904,735

Personal Service 437,769

Expense and Equipment 180,796

From Railroad Expense Fund	618,565
From Light Rail Safety Fund	<u>15,000E</u>
Total (Not to exceed 75.00 F.T.E.).	\$4,416,933

SECTION 7.180. — To the Department of Economic Development
 There is transferred out of the Railroad Expense Fund, One Hundred
 Eighty Thousand Dollars (\$180,000) to the State Highways and
 Transportation Department Fund
 From Railroad Expense Fund. \$180,000E

SECTION 7.185. — To the Department of Economic Development
 There is transferred out of the Light Rail Safety Fund, Three Thousand
 Five Hundred Dollars (\$3,500) to the Railroad Expense Fund
 From Light Rail Safety Fund \$3,500E

SECTION 7.190. — To the Department of Economic Development
 There is transferred out of the Light Rail Safety Fund, Three Thousand
 Five Hundred Dollars (\$3,500) to the State Highways and
 Transportation Department Fund
 From Light Rail Safety Fund \$3,500E

SECTION 7.195. — To the Department of Economic Development
 There is transferred out of the Grade Crossing Safety Account, One
 Hundred Thousand Dollars (\$100,000) to the Railroad Expense
 Fund.
 From Grade Crossing Safety Account. \$100,000

***SECTION 7.200.** — To the Department of Economic Development
 For the Office of Public Counsel
 Personal Service \$758,398
 Expense and Equipment. 221,737
 From General Revenue Fund (Not to exceed 17.00 F.T.E.). \$980,135

*I hereby veto \$50,000 from the Department of Economic Development for the public information section in the Office of Public Counsel. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Service by \$40,000 from \$758,398 to \$718,398.
 Expense and Equipment by \$10,000 from \$221,737 to \$211,737.
 From \$980,135 to \$930,135 in total from General Revenue Fund
 From \$980,135 to \$930,135 in total for the section.

BOB HOLDEN, Governor

SECTION 7.205. — To the Department of Economic Development
 For general administration of Utility Regulation activities
 For Public Service Commission
 Personal Service \$9,416,845
 Annual salary adjustment in accordance with Section 105.005, RSMo 1,050
 Expense and Equipment 3,789,414
 For refunds 10,000E

From Public Service Commission Fund 13,217,309

For Deaf Relay Service and Equipment Distribution Program

From Deaf Relay Service and Equipment Distribution Program Fund 5,000,000

Expense and Equipment

From Manufactured Housing Fund. 2,235

Total (Not to exceed 207.00 F.T.E.). \$18,219,544

SECTION 7.210. — To the Department of Economic Development

For general administration of the Division of Professional Registration

Personal Service \$2,837,932

Expense and Equipment 1,748,204

For examination fees 88,000E

For refunds 35,000E

From Professional Registration Fees Fund (Not to exceed 88.52 F.T.E.). \$4,709,136

SECTION 7.215. — To the Department of Economic Development

For the State Board of Accountancy

Personal Service \$230,966

Expense and Equipment. 195,718

From Board of Accountancy Fund (Not to exceed 7.00 F.T.E.). \$426,684

SECTION 7.220. — To the Department of Economic Development

For the State Board of Architects, Professional Engineers, and Land

Surveyors

Personal Service \$290,638

Expense and Equipment 399,354

For examination fees. 93,985E

From State Board of Architects, Professional Engineers, and Land

Surveyors Fund (Not to exceed 9.00 F.T.E.). \$783,977

SECTION 7.225. — To the Department of Economic Development

For the State Board of Barber Examiners

Expense and Equipment

From Board of Barbers Fund (0 F.T.E.). \$38,271

SECTION 7.230. — To the Department of Economic Development

For the State Board of Chiropractic Examiners

Expense and Equipment

From State Board of Chiropractic Examiners Fund (0 F.T.E.). \$151,052

SECTION 7.235. — To the Department of Economic Development

For the State Board of Cosmetology

Expense and Equipment. \$259,418

For payment of fees for testing services. 48,475E

From Board of Cosmetology Fund (0 F.T.E.). \$307,893

SECTION 7.240. — To the Department of Economic Development

For the Missouri Dental Board

Personal Service \$308,662

Expense and Equipment. 271,908

From Dental Board Fund (Not to exceed 8.50 F.T.E.).. . . . \$580,570

SECTION 7.245. — To the Department of Economic Development

For the State Board of Embalmers and Funeral Directors

Expense and Equipment

From Board of Embalmers and Funeral Directors Fund (0 F.T.E.).. . . . \$149,634

SECTION 7.250. — To the Department of Economic Development

For the State Board of Registration for the Healing Arts

Personal Service \$1,559,743

Expense and Equipment 649,263

For payment of fees for testing services.. . . . 252,510E

From Board of Registration for Healing Arts Fund (Not to exceed
45.08 F.T.E.).. . . . \$2,461,516

SECTION 7.255. — To the Department of Economic Development

For the State Board of Nursing

Personal Service \$796,069

Expense and Equipment. 841,940

For Criminal History Checks. 174,979E

From Board of Nursing Fund (Not to exceed 25.50 F.T.E.).. . . . \$1,812,988

SECTION 7.260. — To the Department of Economic Development

For the State Board of Optometry

Expense and Equipment

From Board of Optometry Fund (0 F.T.E.).. . . . \$42,604

SECTION 7.265. — To the Department of Economic Development

For the State Board of Pharmacy

Personal Service \$520,035

Expense and Equipment 178,499

For criminal history check of prospective licenses.. . . . 41,140E

From Board of Pharmacy Fund (Not to exceed 13.00 F.T.E.).. . . . \$739,674

SECTION 7.270. — To the Department of Economic Development

For the State Board of Podiatric Medicine

Expense and Equipment

From Board of Podiatric Medicine Fund (0 F.T.E.).. . . . \$21,681

SECTION 7.275. — To the Department of Economic Development

For the Missouri Real Estate Commission

Personal Service \$816,684

Expense and Equipment. 294,734

From Real Estate Commission Fund (Not to exceed 26.00 F.T.E.).. . . . \$1,111,418

SECTION 7.280. — To the Department of Economic Development

For the Missouri Veterinary Medical Board

Expense and Equipment. \$71,096

For payment of fees for testing services.. . . . 40,000E

From Veterinary Medical Board Fund (0 F.T.E.).. . . . \$111,096

SECTION 7.285. — To the Department of Economic Development

There is transferred out of the Escrow Agent Administration Fund, Fifteen
 Thousand Dollars (\$15,000) to the Missouri Real Estate Commission
 Fund for the purpose of administering the Escrow Agent Law
 From Escrow Agent Administration Fund \$15,000E

SECTION 7.290. — To the Department of Economic Development

For funding transfer of funds to the General Revenue Fund

From Board of Accountancy Fund	\$49,028E
From State Board of Architects, Engineers, and Land Surveyors Fund	139,146E
From Athletic Fund	39,661E
From Board of Barbers Fund	54,061E
From State Board of Chiropractic Examiners Fund	42,137E
From Clinical Social Workers Fund	51,210E
From Board of Cosmetology Fund	317,784E
From Committee of Professional Counselors Fund	52,156E
From Dental Board Fund	40,887E
From State Committee of Dietitians Fund	9,155E
From Board of Embalmers and Funeral Directors Fund	103,291E
From Endowed Care Cemetery Audit Fund	23,208E
From Board of Geologist Registration Fund	20,878E
From Board of Registration for Healing Arts Fund	352,362E
From Hearing Instrument Specialist Fund	18,431E
From Interior Designer Council Fund	8,875E
From Landscape Architectural Council Fund	8,179E
From Marital and Family Therapists Fund	8,985E
From Board of Nursing Fund	245,801E
From Missouri Board of Occupational Therapy Fund	28,864E
From Board of Optometry Fund	25,770E
From Board of Pharmacy Fund	114,651E
From Board of Podiatric Medicine Fund	9,803E
From State Committee of Psychologists Fund	112,309E
From Real Estate Appraisers Fund	132,838E
From Respiratory Care Practitioners Fund	41,280E
From State Committee of Interpreters Fund	6,761E
From Real Estate Commission Fund	193,432E
From Veterinary Medical Board Fund	52,384E
From Acupuncturist Fund	982E
From Tattoo Artist Fund	6,874E
From Massage Therapy Fund	39,506E
Total	<u>\$2,350,689E</u>

SECTION 7.300. — To the Department of Economic Development

There is transferred, for payment of operating expenses, the following
 amounts to the Professional Registration Fees Fund

From Board of Accountancy Fund	\$101,024E
From State Board of Architects, Engineers, and Land Surveyors Fund	185,393E
From Athletic Fund	162,022E
From Board of Barbers Fund	153,690E
From State Board of Chiropractic Examiners Fund	90,743E
From Clinical Social Workers Fund	182,461E
From Board of Cosmetology Fund	1,088,572E
From Committee of Professional Counselors Fund	180,272E

From Dental Board Fund	49,753E
From State Committee of Dietitians Fund	38,893E
From Board of Embalmers and Funeral Directors Fund	249,305E
From Endowed Care Cemetery Audit Fund	112,657E
From Board of Geologist Registration Fund	52,941E
From Board of Registration for Healing Arts Fund	316,481E
From Hearing Instrument Specialist Fund	56,432E
From Interior Designer Council Fund	30,120E
From Landscape Architectural Council Fund	31,992E
From Marital and Family Therapists Fund	16,106E
From Board of Nursing Fund	786,077E
From Missouri Board of Occupational Therapy Fund	103,523E
From Board of Optometry Fund	69,756E
From Board of Pharmacy Fund	164,760E
From Board of Podiatric Medicine Fund	22,565E
From State Committee of Psychologists Fund	242,331E
From Real Estate Appraisers Fund	240,925E
From Respiratory Care Practitioners Fund	116,300E
From State Committee of Interpreters Fund	26,664E
From Real Estate Commission Fund	406,059E
From Veterinary Medical Board Fund	126,179E
From Acupuncturist Fund	2,407E
From Tattoo Artist Fund	43,577E
From Massage Therapy Fund	<u>125,741E</u>
Total	\$5,575,721E

SECTION 7.305. — To the Department of Economic Development

There is transferred out of the Athletic Fund, Seventy Thousand Dollars

(\$70,000) to the Endowed Care Cemetery Audit Fund

From Athletic Fund \$70,000E

SECTION 7.700. — To the Department of Insurance

Personal Service \$4,935,522

Annual salary adjustment in accordance with Section 105.005, RSMo 210

Expense and Equipment. 1,831,463

From Department of Insurance Dedicated Fund (Not to exceed 144.50

F.T.E.) \$6,767,195

SECTION 7.705. — To the Department of Insurance

For market conduct and financial examinations of insurance companies

Personal Service \$4,924,547E

Expense and Equipment. 1,704,104E

From Insurance Examiners Fund (Not to exceed 82.00 F.T.E.). \$6,628,651E

SECTION 7.710. — To the Department of Insurance

For refunds

From Insurance Examiners Fund \$1E

From Department of Insurance Dedicated Fund 25,000E

Total (0 F.T.E.) \$25,001E

SECTION 7.715. — To the Department of Insurance

For the purpose of funding programs providing counseling on health insurance coverage and benefits to Medicare beneficiaries
 From Federal Funds (0 F.T.E.) \$400,000

SECTION 7.800. — To the Department of Labor and Industrial Relations

For the Director and Staff

For life insurance costs

From General Revenue Fund \$150

Personal Service 525,436
 Expense and Equipment 1,553,866
 For life insurance costs. 87,602
 From Unemployment Compensation Administration Fund 2,166,904

Personal Service 7,191,446
 Annual salary adjustment in accordance with Section 105.005, RSMo 210
 Expense and Equipment. 9,100,281
 From Department of Labor and Industrial Relations Administrative Fund 16,291,937

Personal Service 23,184
 Expense and Equipment 4,864
 For life insurance costs. 795
 From Workers' Compensation Fund 28,843

For life insurance costs

From Crime Victims' Compensation Fund 75
 Total (Not to exceed 188.39 F.T.E.) \$18,487,909

SECTION 7.802. — To the Department of Labor and Industrial Relations

There is transferred, for payment of administrative costs, the following

amounts to the Department of Labor and Industrial Relations

Administrative Fund

From General Revenue Fund \$877,467
 From Federal Funds 14,539,102
 From Workers' Compensation Fund 3,054,276
 From Crime Victims' Compensation Fund 108,989
 From Special Employment Security Fund 120,000
 Total \$18,699,834

SECTION 7.810. — To the Department of Labor and Industrial Relations

For the Labor and Industrial Relations Commission

Personal Service \$19,619
 Expense and Equipment. 2,990
 From General Revenue Fund 22,609

Personal Service 228,074
 Annual salary adjustment in accordance with Section 105.005, RSMo 2,160
 Expense and Equipment. 42,651
 From Unemployment Compensation Administration Fund 272,885

Personal Service 505,679

Expense and Equipment.	93,331
From Workers' Compensation Fund	599,010

Personal Service	1,586
Expense and Equipment.	280
From Crime Victims' Compensation Fund	1,866
Total (Not to exceed 15.00 F.T.E.).	\$896,370

SECTION 7.815. — To the Department of Labor and Industrial Relations

For the Division of Labor Standards

For Administration

Personal Service	\$1,195,099
Expense and Equipment.	286,530
From General Revenue Fund	1,481,629

Personal Service	150,630
Expense and Equipment.	150,000
From Federal Funds	300,630

Expense and Equipment	
From Child Labor Enforcement Fund	200,000
Total (Not to exceed 35.70 F.T.E.).	\$1,982,259

SECTION 7.820. — To the Department of Labor and Industrial Relations

For the Division of Labor Standards

For safety and health programs

Personal Service and/or

Expense and Equipment

From General Revenue Fund	\$100,000
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Personal Service	547,540
Expense and Equipment.	218,078
From Federal Funds.	765,618
Total (Not to exceed 13.00 F.T.E.).	\$865,618

SECTION 7.825. — To the Department of Labor and Industrial Relations

For the Division of Labor Standards

For mine safety and health training programs

Personal Service and/or Expense and Equipment

From General Revenue Fund	\$80,748
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Personal Service	255,839
Expense and Equipment.	126,965
From Federal Funds.	382,804
Total (Not to exceed 6.00 F.T.E.).	\$463,552

SECTION 7.830. — To the Department of Labor and Industrial Relations

For the State Board of Mediation

Personal Service	\$124,715
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Expense and Equipment.	36,307
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From General Revenue Fund (Not to exceed 3.00 F.T.E.).	\$161,022
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SECTION 7.835. — To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For the purpose of funding Administration

Personal Service	\$8,181,202
Expense and Equipment	1,674,284
There is transferred from the Workers' Compensation Fund to the Kids' Chance Scholarship Fund	50,000
From Workers' Compensation Fund	9,905,486

Personal Service	
From Crime Victims' Compensation Fund	21,600
Total (Not to exceed 178.75 F.T.E.)	\$9,927,086

SECTION 7.840. — To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payment of special claims

From Second Injury Fund (0 F.T.E.)	\$28,000,000E
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SECTION 7.845. — To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For Crime Victims' Administration

Expense and Equipment	
From Federal Funds	\$50,000

Personal Service	262,909
Expense and Equipment	101,558
From Crime Victims' Compensation Fund	364,467
Total (Not to exceed 9.00 F.T.E.)	\$414,467

SECTION 7.850. — To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payment of claims to crime victims

From Federal Funds	\$1,700,001E
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For payment of claims to crime victims	
From Crime Victims' Compensation Fund	4,599,999E
Total (0 F.T.E.)	\$6,300,000E

SECTION 7.855. — To the Department of Labor and Industrial RelationsThere is transferred, for payment of office space costs, the following
amounts to the Workers' Compensation Fund

From General Revenue Fund	\$115,747
From Federal Funds	30,548
From Crime Victims' Compensation Fund	190
Total	\$146,485

SECTION 7.860. — To the Department of Labor and Industrial Relations

For the Division of Employment Security

Personal Service	\$27,797,496E
Expense and Equipment	8,623,488E
From Unemployment Compensation Administration Fund (Not to exceed 792.57 F.T.E.)	\$36,420,984

SECTION 7.865. — To the Department of Labor and Industrial Relations
For the Division of Employment Security

For administration of programs authorized and funded by the United States
Department of Labor, such as Disaster Unemployment Assistance
(DUA), and provided that all funds shall be expended from discrete
accounts and that no monies shall be expended for funding admin-
istration of these programs by the Division of Employment Security
From Unemployment Compensation Administration Fund (0 F.T.E.) \$9,000,000E

SECTION 7.870. — To the Department of Labor and Industrial Relations
For the Division of Employment Security

Personal Service \$100,569E
Expense and Equipment. 1,280,000E
From Special Employment Security Fund (Not to exceed 2.71 F.T.E.) \$1,380,569

SECTION 7.875. — To the Department of Labor and Industrial Relations
For the Division of Employment Security

For the payment of refunds set-off against debts as required by Section
143.786, RSMo
From Debt Offset Escrow Fund (0 F.T.E.) \$1,600,000E

SECTION 7.880. — To the Department of Labor and Industrial Relations
For the Governor's Council on Disability

Personal Service \$255,442
Expense and Equipment. 381,108
From General Revenue Fund 636,550

Personal Service 312,671
Expense and Equipment. 541,896
From Federal Funds 854,567

Personal Service 117,503
Expense and Equipment. 2,537,511
From Deaf Relay Service and Equipment Distribution Program Fund 2,655,014

Program Specific Distribution
For general program administration, including all expenditures for the
Assistive Technology Loan Program

From Federal Funds 500,000
From Assistive Technology Loan Revolving Fund 500,000
Total (Not to exceed 18.70 F.T.E.) \$5,146,131

***SECTION 7.885.** — To the Department of Labor and Industrial Relations
For the Missouri Commission on Human Rights

Personal Service \$1,295,084
Expense and Equipment. 227,412
From General Revenue Fund 1,522,496

Personal Service 639,620
Expense and Equipment. 252,000
From Federal Funds. 891,620
Total (Not to exceed 52.45 F.T.E.) \$2,414,116

*I hereby veto \$40,000 from the Department of Labor and Industrial Relations for the Missouri Commission on Human Rights for computer equipment. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources. Remaining funds are sufficient for the equipment.

Expense and Equipment by \$40,000 from \$227,412 to \$187,412.
 From \$1,522,496 to \$1,482,496 in total from General Revenue fund.
 From \$2,414,116 to \$2,374,116 in total for the section.

BOB HOLDEN, Governor

Bill Totals

General Revenue Fund.	\$69,597,209
Federal Funds.	210,924,496
Other Funds.	<u>140,480,420</u>
Total.	\$421,002,125

Approved June 22, 2001

HB 8 [CCS SCS HCS HB 8]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF PUBLIC SAFETY.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 8.005. — To the Department of Public Safety

For the Office of the Director

Personal Service.	\$1,205,137
Annual salary adjustment in accordance with Section 105.005, RSMo	183
Expense and Equipment.	550,060
For the Operation Payback Program.	<u>100,000</u>
From General Revenue Fund.	1,855,380

Personal Service.	372,478
Annual salary adjustment in accordance with Section 105.005, RSMo	27

Expense and Equipment.	475,594
Program Specific Distribution.	<u>200,000</u>
From Federal Funds	1,048,099

Personal Service	
From Crime Victims' Compensation Fund.	18,988

Expense and Equipment	
From Firing Range Fee Fund	1,500
From Missouri Crime Prevention Information and Programming Fund.	<u>50,000</u>
Total (Not to exceed 43.00 F.T.E.).	\$2,973,967

SECTION 8.010. — To the Department of Public Safety

For the Office of the Director

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance Reserve Fund (0 F.T.E.).	\$185,889
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SECTION 8.015. — To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Challenge Grant Program

From Federal Funds (0 F.T.E.).	\$350,000
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SECTION 8.020. — To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Delinquency Prevention Program

From Federal Funds (0 F.T.E.).	\$2,500,000
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SECTION 8.025. — To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Accountability Incentive Block Grant Program

From Federal Funds (0 F.T.E.).	\$6,419,607
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SECTION 8.030. — To the Department of Public Safety

For the Office of the Director

For the purpose of funding local government/school district partnership
programs pursuant to Sections 589.300 through 589.310, RSMo

From General Revenue Fund (0 F.T.E.).	\$800,000
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SECTION 8.035. — To the Department of Public Safety

For the Office of the Director

For the Local Law Enforcement Block Grant Program

From Federal Funds (0 F.T.E.).	\$600,000
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SECTION 8.040. — To the Department of Public Safety

For the Office of the Director

For the Narcotics Control Assistance Program

From Federal Funds (0 F.T.E.).	\$11,000,000
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SECTION 8.045. — To the Department of Public Safety

For the Office of the Director

For the Community-Oriented Policing Program

From General Revenue Fund (0 F.T.E.).	\$180,000
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SECTION 8.050. — To the Department of Public Safety

For the Office of the Director

For programs to provide protective services for witnesses of crime

From General Revenue Fund (0 F.T.E.). \$7,000

SECTION 8.055. — To the Department of Public Safety

For the Office of the Director

For the Services to Victims Program

From Services to Victims Fund (0 F.T.E.). \$3,700,000

For counseling and other support services for crime victims

From Crime Victims' Compensation Fund. 50,000Total (0 F.T.E.). \$3,750,000**SECTION 8.060.** — To the Department of Public Safety

For the Office of the Director

For the Victims of Crime Program

From Federal Funds (0 F.T.E.). \$9,000,000

SECTION 8.065. — To the Department of Public Safety

For the Office of the Director

For the Violence Against Women Program

From Federal Funds (0 F.T.E.). \$3,200,000

SECTION 8.070. — To the Department of Public Safety

For the purpose of funding regional crime labs on a matching reimbursement basis of one dollar of state funding for each dollar of regional funding provided through fees or contributions that may be collected from local law enforcement agencies in Missouri up to the limit of this appropriation. Support of any non-law enforcement agency, any agency or institution of state government, any agency funded principally through federal entitlement or grant, or any law enforcement agency in a metropolitan area having a population exceeding one hundred thousand shall not be included in determining the regional funding used to calculate the amount of matching state funds

From General Revenue Fund (0 F.T.E.). \$400,000

SECTION 8.075. — To the Department of Public Safety

For the Office of Director

For local matching grants for multi-jurisdictional task forces in second-, third-, and fourth-class counties

From General Revenue Fund (0 F.T.E.). \$50,000

SECTION 8.080. — To the Department of Public Safety

For the Office of the Director

For the Meth and Ecstasy Initiative

From General Revenue Fund. \$225,000

From Federal Funds 675,000Total (0 F.T.E.). \$900,000**SECTION 8.085.** — To the Department of Public Safety

For the State Forensic Laboratory Program
 From State Forensic Laboratory Fund (0 F.T.E.)..... \$266,000

SECTION 8.090. — To the Department of Public Safety
 For the Office of the Director
 For the Residential Substance Abuse Treatment Program
 From Federal Funds (0 F.T.E.). \$1,227,000

SECTION 8.095. — To the Department of Public Safety
 For the Office of the Director
 For peace officer training in accordance with the provisions of Section
 590.178, RSMo
 From Peace Officer Standards and Training Commission Fund
 (0 F.T.E.)..... \$1,500,000

SECTION 8.105. — To the Department of Public Safety
 For the Capitol Police
 Personal Service..... \$1,371,487
 Expense and Equipment. 105,640
 From General Revenue Fund. 1,477,127

 Personal Service..... 16,558
 Expense and Equipment. 3,625
 From Federal Funds. 20,183
 Total (Not to exceed 45.00 F.T.E.). \$1,497,310

SECTION 8.110. — To the Department of Public Safety
 For the State Highway Patrol
 For the High-Intensity Drug Trafficking Area Program
 From Federal Funds. \$2,200,000

 Personal Service..... 3,566,636
 Expense and Equipment. 316,607
 From State Highways and Transportation Department Fund 3,883,243

 Expense and Equipment
 From Gaming Commission Fund. 4,865
 Total (Not to exceed 92.00 F.T.E.). \$6,088,108

SECTION 8.115. — To the Department of Public Safety
 For the State Highway Patrol
 For fringe benefits, including retirement contributions for members of the
 Highways and Transportation Employees' and Highway Patrol
 Retirement System, and insurance premiums
 Personal Service Benefits. \$2,899,045E
 Expense and Equipment. 115,328E
 From General Revenue Fund. 3,014,373

 Personal Service Benefits 628,507E
 Expense and Equipment. 28,468E
 From Federal Funds 656,975

Personal Service Benefits	9,280E
Expense and Equipment.	<u>594E</u>
From Gaming Commission Fund.	9,874

Personal Service Benefits	26,337,006
Expense and Equipment.	<u>1,060,071</u>
From State Highways and Transportation Department Fund	27,397,077

Personal Service Benefits	330,393E
Expense and Equipment.	<u>13,986E</u>
From Criminal Record System Fund	344,379

Personal Service Benefits	9,591E
Expense and Equipment.	<u>435E</u>
From Criminal Justice Network and Technology Revolving Fund.	10,026
Total (0 F.T.E.).	<u>\$31,432,704</u>

SECTION 8.120. — There is transferred out of the State Treasury,
chargeable to the Federal Drug Seizure Fund, On Million, Three Hundred
Sixty- one Thousand, One Hundred Sixty-five Dollars (\$1,361,165)
to the General Revenue Fund
From Federal Drug Seizure Fund. \$1,361,165

SECTION 8.125. — To the Department of Public Safety
For the State Highway Patrol
For the Enforcement Program
Personal Service. \$5,683,994
Expense and Equipment. 1,320,370
From General Revenue Fund. 7,004,364

Personal Service.	1,747,094
Expense and Equipment.	<u>12,650,750</u>
From Federal Funds	14,397,844

Personal Service.	48,638,260
Expense and Equipment.	<u>4,253,046</u>
From State Highways and Transportation Department Fund	52,891,306

Personal Service.	498,758
Expense and Equipment.	<u>1,241,550</u>
From Criminal Record System Fund	1,740,308

Personal Service.	21,265
Expense and Equipment.	<u>84,908</u>
From Gaming Commission Fund.	106,173

For the State Highway Patrol
All expenditures must be in compliance with the United States
Department of Justice equitable sharing program guidelines
Expense and Equipment
From General Revenue. 1,011,955
Total (Not to exceed 1,390.00 F.T.E.). \$77,151,950

SECTION 8.130. — To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including aircraft,
and Gaming Commission vehicles
Expense and Equipment

From General Revenue Fund.	\$170,286
From Gaming Commission Fund.	186,661
From State Highways and Transportation Department Fund	<u>1,733,377</u>
Total (0 F.T.E.).	\$2,090,324

SECTION 8.135. — To the Department of Public Safety

For the State Highway Patrol

For purchase of vehicles for the State Highway Patrol and the Gaming
Commission
Expense and Equipment

From General Revenue Fund.	\$220,717
From State Highways and Transportation Department Fund	3,823,946
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	6,006,800
From Gaming Commission Fund.	<u>504,259</u>
Total (0 F.T.E.).	\$10,555,722

SECTION 8.140. — To the Department of Public Safety

For the State Highway Patrol

For the State Highway Patrol Crime Labs

Personal Service.	\$1,218,981
Expense and Equipment.	<u>337,281</u>
From General Revenue Fund.	1,556,262

Personal Service.	300,723
Expense and Equipment.	177,191
For grants to St. Louis City and St. Louis County Forensic DNA Labs.	<u>377,698</u>
From Federal Funds	855,612

Personal Service.	463,175
Expense and Equipment.	<u>89,989</u>
From State Highways and Transportation Department Fund	553,164

Personal Service.	61,376
Expense and Equipment.	<u>3,600</u>
From Criminal Record System Fund	64,976

Expense and Equipment	
From State Forensic Laboratory Fund.	60,000

For the State Highway Patrol

All expenditures must be in compliance with the United States Depart-
ment of Justice equitable sharing program guidelines
Expense and Equipment

From General Revenue Fund.	<u>213,800</u>
Total (Not to exceed 58.25 F.T.E.).	\$3,303,814

SECTION 8.145. — To the Department of Public Safety

For the State Highway Patrol
 For the Law Enforcement Academy
 Personal Service. \$496,218
 Expense and Equipment. 620,375
 From General Revenue Fund. 1,116,593

 Personal Service. 83,129
 Expense and Equipment. 87,859
 From Federal Funds 170,988

For the DARE Regional Training Center
 Personal Service. 94,004
 Expense and Equipment. 159,256
 From Federal Funds 253,260

 Personal Service. 828,971
 Expense and Equipment. 144,139
 From State Highways and Transportation Department Fund 973,110

 Expense and Equipment
 From Highway Patrol Academy Fund. 600,000
 Total (Not to exceed 42.00 F.T.E.). \$3,113,951

SECTION 8.150. — To the Department of Public Safety

For the State Highway Patrol
 For Vehicle and Driver Safety
 Expense and Equipment
 From Federal Funds. \$82,550

 Personal Service. 8,857,396
 Expense and Equipment. 827,137
 From State Highways and Transportation Department Fund 9,684,533

 Expense and Equipment
 From Missouri Air Pollution Control Fund 137,347

 Expense and Equipment
 From Highway Patrol Inspection Fund. 37,725
 Total (Not to exceed 285.00 F.T.E.). \$9,942,155

SECTION 8.155. — To the Department of Public Safety

For the State Highway Patrol
 For the purpose of refunding unused motor vehicle inspection stickers
 From Missouri Air Pollution Control Fund. \$10,000E
 From State Highways and Transportation Department Fund 40,000
 Total (0 F.T.E.). \$50,000

SECTION 8.160. — To the Department of Public Safety

For the State Highway Patrol
 For Technical Services
 Personal Service. \$388,111
 Expense and Equipment. 352,753

From General Revenue Fund.	740,864
Personal Service.	275,197
Expense and Equipment.	<u>139,282</u>
From Federal Funds	414,479
Personal Service.	9,117,639
Expense and Equipment.	<u>5,131,647</u>
From State Highways and Transportation Department Fund	14,249,286
Personal Service.	385,040
Expense and Equipment.	<u>979,937</u>
From Criminal Record System Fund	1,364,977
Personal Service	
From Gaming Commission Fund.	18,582
Personal Service.	29,394
Expense and Equipment.	<u>2,201,000E</u>
From Criminal Justice Network and Technology Revolving Fund.	2,230,394
For the State Highway Patrol	
All expenditures must be in compliance with the United States	
Department of Justice equitable sharing program guidelines	
Expense and Equipment	
From General Revenue Fund.	<u>135,410</u>
Total (Not to exceed 265.00 F.T.E.).	\$19,153,992
SECTION 8.165. — There is transferred out of the State Treasury,	
chargeable to the Federal Drug Seizure Fund, Twenty-seven	
Thousand, Five Hundred Sixty-two Dollars to the General Revenue	
Fund	
From Federal Drug Seizure Fund.	\$27,562
SECTION 8.170. — To the Department of Public Safety	
For the State Water Patrol	
Personal Service.	\$4,174,585
Expense and Equipment.	835,251
For the purpose of funding additional fuel expenses.	<u>40,000</u>
From General Revenue Fund.	5,049,836
Personal Service.	200,204
Expense and Equipment.	<u>1,329,728</u>
From Federal Funds	1,529,932
For the State Water Patrol	
All expenditures must be in compliance with the United States	
Department of Justice equitable sharing program guidelines	
Expense and Equipment	
From General Revenue Fund.	<u>27,562</u>
Total (Not to exceed 120.50 F.T.E.).	\$6,607,330

SECTION 8.175. — To the Department of Public Safety

For the Division of Liquor Control

Personal Service.	\$3,155,931
Expense and Equipment.	<u>699,444</u>
From General Revenue Fund.	3,855,375

Personal Service.	180,063
Expense and Equipment.	<u>79,258</u>
From Federal Funds.	<u>259,321</u>
Total (Not to exceed 84.35 F.T.E.).	\$4,114,696

SECTION 8.180. — To the Department of Public Safety

For the Division of Liquor Control

For refunds for unused liquor and beer licenses and for liquor and beer
stamps not used and canceled

From General Revenue Fund (0 F.T.E.). \$18,000E

SECTION 8.185. — To the Department of Public Safety

For the Division of Fire Safety

Personal Service.	\$2,018,992
Expense and Equipment.	<u>673,615</u>
From General Revenue Fund (Not to exceed 58.92 F.T.E.).	\$2,692,607

SECTION 8.190. — To the Department of Public Safety

For the Division of Fire Safety

For firefighter training contracted services

Expense and Equipment	
From General Revenue Fund.	\$354,442
From Chemical Emergency Preparedness Fund.	<u>142,237</u>
Total (0 F.T.E.).	\$496,679

SECTION 8.195. — To the Department of Public Safety

For the Division of Highway Safety

Personal Service.	\$438,207
Expense and Equipment.	<u>74,021</u>
From Federal Funds	512,228

Personal Service.	360,279
Expense and Equipment.	<u>95,899</u>
From State Highways and Transportation Department Fund	456,178

Expense and Equipment	
From Motorcycle Safety Trust Fund.	<u>50,000</u>
Total (Not to exceed 19.00 F.T.E.).	\$1,018,406

SECTION 8.200. — To the Department of Public Safety

For the Division of Highway Safety

For all allotments, grants, and contributions from federal sources that may
be deposited in the state treasury for grants of National Highway
Safety Act moneys

From Federal Funds (0 F.T.E.). \$6,000,000

SECTION 8.205. — To the Department of Public Safety

For the Division of Highway Safety

For the Combating Underage Drinking Program

From Federal Funds (0 F.T.E.). \$720,000

SECTION 8.210. — To the Department of Public Safety

For the Division of Highway Safety

For the Motor Carrier Safety Assistance Program

From Federal Funds (0 F.T.E.). \$1,350,000E

SECTION 8.215. — To the Department of Public Safety

For the Missouri Veterans' Commission

For Administration and Service to Veterans

Personal Service. \$1,656,052

Expense and Equipment. 278,999

From General Revenue Fund. 1,935,051

Personal Service. 460,221

Expense and Equipment. 724,353

From Missouri Veterans' Homes Fund 1,184,574

Personal Service. 596,512

Expense and Equipment. 2,546,250

From Veterans' Commission Capital Improvement Trust Fund 3,142,762

Expense and Equipment

From Veterans' Trust Fund. 12,500

Total (Not to exceed 90.29 F.T.E.). \$6,274,887

SECTION 8.216. — To the Department of Public Safety

For the Missouri Veterans Commission

For Veterans' Service Officer Programs

From Veterans' Commission Capital Improvement Trust Fund

(0 F.T.E.). \$750,000

SECTION 8.220. — To the Department of Public Safety

For the Missouri Veterans' Commission

For Missouri Veterans' Homes

Personal Service. \$6,811,310

Expense and Equipment. 341,121

From General Revenue Fund. 7,152,431

Personal Service. 21,646,061

Expense and Equipment. 11,930,991

From Missouri Veterans' Homes Fund 33,577,052

Expense and Equipment

From Veterans' Trust Fund. 52,500

Personal Service

From Veterans' Commission Capital Improvement Trust Fund. 23,400

Total (Not to exceed 1,201.83 F.T.E.). \$40,805,383

SECTION 8.225. — To the Department of Public Safety

For the Gaming Commission

For the Divisions of Gaming and Bingo

Personal Service.	\$10,825,279
Expense and Equipment.	2,415,568
From Gaming Commission Fund.	13,240,847

Expense and Equipment	
From Compulsive Gamblers Fund.	40,000
Total (Not to exceed 238.00 F.T.E.).	\$13,280,847

SECTION 8.230. — To the Department of Public Safety

For the Gaming Commission

For fringe benefits, including retirement contributions for members of the
Highways and Transportation Employees' and Highway Patrol
Retirement System, and insurance premiums for State Highway Patrol
employees assigned to work under the direction of the Gaming
Commission

Personal Service Benefits.	\$2,782,330E
Expense and Equipment.	103,398E
From Gaming Commission Fund (0 F.T.E.).	\$2,885,728

SECTION 8.235. — To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount that
is credited to the Gaming Commission Fund

From Gaming Commission Fund (0 F.T.E.).	\$100,000E
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SECTION 8.240. — To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount
received for bingo fees

From Bingo Proceeds for Education Fund (0 F.T.E.).	\$5,000E
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SECTION 8.245. — To the Department of Public Safety

For the Gaming Commission

For breeder incentive payments

From Missouri Breeders Fund (0 F.T.E.).	\$5,000
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SECTION 8.250. — There is transferred out of the State Treasury,chargeable to the Federal Drug Seizure Fund, Ninety Thousand
Dollars to the General Revenue Fund

From Federal Drug Seizure Fund (0 F.T.E.).	\$90,000
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SECTION 8.255. — To the Adjutant General

For Missouri Military Forces Administration

Personal Service.	\$1,945,167
Expense and Equipment.	286,147
From General Revenue Fund.	2,231,314

For Missouri Military Forces Administration

All expenditures must be in compliance with the United States Department
of Justice equitable sharing program guidelines
Expense and Equipment

From General Revenue Fund.	90,000
Total (Not to exceed 68.41 F.T.E.).	<u>\$2,321,314</u>

SECTION 8.260. — To the Adjutant General

For activities in support of the Guard pursuant to Section 41.214, RSMo
Expense and Equipment

From the Missouri National Guard Trust Fund (0 F.T.E.).	\$2,000
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SECTION 8.265. — To the Adjutant General

For the World War II Veterans' Recognition Program
Expense and Equipment

From Veterans' Commission Capital Improvement Trust Fund (0 F.T.E.).	\$3,000,000
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SECTION 8.270. — To the Adjutant General

For the National Guard Tuition Assistance Program pursuant to Section
173.239, RSMo

From General Revenue Fund.	\$200,000
From Missouri National Guard Trust Fund.	<u>2,262,400</u>
Total (0 F.T.E.).	<u>\$2,462,400</u>

SECTION 8.275. — To the Adjutant General

For the Military Honors Program pursuant to Section 41.958, RSMo
Personal Service and/or Expense and Equipment

From Missouri National Guard Trust Fund (Not to exceed 43.40 F.T.E.).	\$2,251,135
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SECTION 8.280. — To the Adjutant General

For operational maintenance and repairs for state and federally owned
facilities

From Federal Funds.	\$100,000
From Facilities Maintenance Reserve Fund.	<u>399,881</u>
Total (0 F.T.E.).	<u>\$499,881</u>

***SECTION 8.285.** — To the Adjutant General

For Missouri Military Forces Field Support

Personal Service.	\$994,846
Expense and Equipment.	417,440
Fuel and Utilities.	<u>1,382,651</u>
From General Revenue Fund (Not to exceed 55.08 F.T.E.).	<u>\$2,794,937</u>

*I hereby veto \$67,965 general revenue for Missouri National Guard recruitment efforts. I am approving a total of \$120,552 in additional funds for this purpose, including funds for a diversity coordinator and for operation of additional armories in the metropolitan areas. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by \$67,965 from \$417,440 to \$349,475 General Revenue Fund.
From \$2,794,937 to \$2,726,972 in total for the section.

BOB HOLDEN, Governor

SECTION 8.290. — To the Adjutant General

For fuel and utility expenses at armories from armory rental fees

Expense and Equipment

From Adjutant General Revolving Fund (0 F.T.E.). \$25,000E

SECTION 8.295. — To the Adjutant General

For training site operating costs

Expense and Equipment

From Missouri National Guard Training Site Fund (0 F.T.E.). \$244,800E

SECTION 8.300. — To the Adjutant General

For Missouri Military Forces Contract Services

Personal Service. \$569,208

Expense and Equipment. 475,912

From General Revenue Fund. 1,045,120

Personal Service. 6,492,085

Expense and Equipment. 6,900,000E

For refunds of federal overpayments to the state for the Contract

Services Program. 30,000EFrom Federal Funds 13,422,085

Total (Not to exceed 235.63 F.T.E.). \$14,467,205

SECTION 8.305. — To the Adjutant General

For the Challenge Youth Program

Personal Service. \$606,831

Expense and Equipment. 543,442

From General Revenue Fund. 1,150,273

Personal Service. 877,555

Expense and Equipment. 847,852From Federal Funds 1,725,407

Total (Not to exceed 53.50 F.T.E.). \$2,875,680

SECTION 8.310. — To the Adjutant General

For the Troupers Training School

Personal Service. \$150,700

Expense and Equipment. 20,831

From General Revenue Fund. 171,531

Personal Service. 371,449

Expense and Equipment. 637,838EFrom Federal Funds 1,009,287

Total (Not to exceed 17.63 F.T.E.). \$1,180,818

SECTION 8.315. — To the Adjutant General

For the Office of Air Search and Rescue

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$44,247

***SECTION 8.320.** — To the Adjutant General
For the State Emergency Management Agency
For Administration and Emergency Operations

Personal Service.....	\$1,521,486
Expense and Equipment.	317,970
For local hazard mitigation projects under the Flood Mitigation Assistance Program.	<u>100,000</u>
From General Revenue Fund	1,939,456
 Personal Service.....	874,756
Expense and Equipment.	<u>216,023</u>
From Federal Funds	1,090,779
 Personal Service.....	161,988
Expense and Equipment.	<u>68,884</u>
From Chemical Emergency Preparedness Fund.	<u>230,872</u>
Total (Not to exceed 69.26 F.T.E.).	\$3,261,107

*I hereby veto \$50,000 general revenue for the State Emergency Management Agency for floodplain mapping. This amount represents only a small portion of the much larger amount that would be necessary to accomplish floodplain mapping on a statewide basis. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by \$50,000 from \$317,970 to \$267,970 General Revenue Fund.
From \$1,939,456 to \$1,889,456 in total from General Revenue Fund.
From \$3,261,107 to \$3,211,107 in total for the section.

BOB HOLDEN, Governor

***SECTION 8.322.** — To the Adjutant General
For the State Emergency Management Agency
For the purpose of funding Missouri Task Force One
From Federal Funds (0 F.T.E.). \$50,000

*I hereby veto \$50,000 federal funds for Missouri Task Force One. The appropriation is being reduced because no additional funds are expected to be available for distribution to the task force.

Said section is vetoed in its entirety by \$50,000 from \$50,000 to \$0 Federal Funds.
From \$50,000 to \$0 in total for the section.

BOB HOLDEN, Governor

SECTION 8.325. — To the Adjutant General
For the State Emergency Management Agency
For the Community Right-to-Know Act
From Chemical Emergency Preparedness Fund. \$650,000

For distribution of funds to local emergency planning commissions to implement the federal Hazardous Materials Transportation Uniform Safety Act of 1990	
From Federal Funds	<u>350,000</u>
Total (0 F.T.E.).	\$1,000,000

SECTION 8.330. — To the Adjutant General

For the State Emergency Management Agency

For all allotments, grants, and contributions from federal and other sources
that are deposited in the state treasury for administrative and training
expenses of the State Emergency Management Agency

From Federal and Other Funds. \$1,500,000E

For all allotments, grants, and contributions from federal and other sources
that are deposited in the state treasury for the use of the State
Emergency Management Agency for alleviating distress from
disasters

From Missouri Disaster Fund. 500,000E

To provide matching funds for federal grants received under Public Law
93-288 and for emergency assistance expenses of the State
Emergency Management Agency as provided in Section 44.032,
RSMo

From General Revenue Fund.. . . . 66,264E

Total (0 F.T.E.). \$2,066,264

SECTION 8.335. — There is transferred out of the state treasury,
chargeable to the Veterans' Commission Capital Improvement Trust
Fund, five hundred thousand dollars to the Veterans' Homes Fund

From Veterans' Commission Capital Improvement Trust Fund. \$500,000E

SECTION 8.340. — There is transferred out of the state treasury,
chargeable to the Gaming Commission Fund, three million dollars to
the Veterans' Commission Capital Improvement Trust Fund

From Gaming Commission Fund.. . . . \$3,000,000

SECTION 8.345. — There is transferred out of the state treasury,
chargeable to the Gaming Commission Fund, three million dollars to
the Missouri National Guard Trust Fund

From Gaming Commission Fund.. . . . \$3,000,000

SECTION 8.350. — There is transferred out of the state treasury,
chargeable to the Gaming Commission Fund, four million, five
hundred thousand dollars to the Missouri College Guarantee Fund

From Gaming Commission Fund.. . . . \$4,500,000E

SECTION 8.355. — There is transferred out of the state treasury,
chargeable to the Gaming Commission Fund, thirty-one million, two
hundred sixty thousand dollars to the Early Childhood Development,
Education and Care Fund

From Gaming Commission Fund.. . . . \$31,260,000E

SECTION 8.360. — There is transferred out of the state treasury,
chargeable to the Highway Patrol Inspection Fund, one dollar to the
State Road Fund

From Highway Patrol Inspection Fund. \$1E

SECTION 8.365. — There is transferred out of the state treasury,

chargeable to the Gaming Commission Fund, one hundred ninety thousand, one hundred ten dollars to the Compulsive Gamblers Fund
 From Gaming Commission Fund. \$190,110

Bill Totals

General Revenue Fund. \$50,997,577
 Federal Funds. 85,190,636
 Other Funds. 203,086,861
 Total. \$339,275,074

Approved June 22, 2001

HB 9 [CCS SCS HCS HB 9]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF CORRECTIONS AND BOARD OF PUBLIC BUILDINGS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections, the Board of Public Buildings, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 9.005. — To the Department of Corrections

For the purpose of funding the Office of the Director

Personal Service. \$3,090,086
 Annual salary adjustment in accordance with Section 105.005, RSMo 210
 Expense and Equipment. 271,822
 From General Revenue Fund. 3,362,118

Expense and Equipment

From Crime Victims' Compensation Fund 82,500
 Total (Not to exceed 95.00 F.T.E.). \$3,444,618

SECTION 9.010. — To the Department of Corrections

For the Office of the Director

For the purpose of funding General Services

Personal Service \$2,297,666
 Expense and Equipment. 435,732
 From General Revenue Fund 2,733,398

Personal Service	
From Working Capital Revolving Fund	<u>71,325</u>
Total (Not to exceed 83.58 F.T.E.).....	\$2,804,723

SECTION 9.015. — To the Department of Corrections

For the Office of the Director

For the purpose of funding all grants and contributions of funds from the
Federal government or from any other source which may be deposited
in the State Treasury for the use of the Department of Corrections

Personal Service	\$1,820,707
Expense and Equipment	2,558,418
Personal Service and/or Expense and Equipment.	<u>800,000</u>
From Federal Funds (44.00 F.T.E.).	\$5,179,125

SECTION 9.020. — To the Department of Corrections

For the Office of the Director

For the purpose of funding data processing and information systems costs
department-wide

Personal Service	\$2,315,247
Expense and Equipment.....	<u>4,658,923</u>
From General Revenue Fund (Not to exceed 56.79 F.T.E.).	\$6,974,170

SECTION 9.025. — To the Department of Corrections

For the Office of the Director

For the purpose of funding the Inmate Fund Programs

Personal Service	\$719,191
Expense and Equipment.....	<u>126,097</u>
From Inmate Revolving Fund (Not to exceed 21.00 F.T.E.).	\$845,288

SECTION 9.030. — To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of fuel and utilities
department-wide

Expense and Equipment	
From General Revenue Fund.	\$19,113,213
From Working Capital Revolving Fund	<u>1,000,000</u>
Total (0 F.T.E.).	\$20,113,213

SECTION 9.031. — To the Board of Public Buildings

For the Department of Corrections

For payment of rent by the Department of Corrections to the Board for the
Farmington Correctional Center and Fulton Reception and Diagnostic
Center. Funds to be used by the Board for fuel and utilities.

Expense and Equipment	
From General Revenue Fund (0 F.T.E.).	\$2,568,750

SECTION 9.035. — To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of telecommunications
department-wide
Expense and Equipment - provided that no federal funds be used for
parole hearings

From General Revenue Fund	\$3,118,746
From Federal Funds	1,000,000
From Working Capital Revolving Fund	<u>256,400</u>
Total (0 F.T.E.)	\$4,375,146

SECTION 9.040. — To the Department of Corrections

For the Office of the Director

For the purchase, transportation and storage of food, and food service items
at all correctional institutions

Expense and Equipment

From General Revenue Fund.	\$23,590,594
From Federal Funds.	<u>450,000</u>
Total (0 F.T.E.)	\$24,040,594

SECTION 9.045. — To the Department of Corrections

For the Office of the Director

For the purpose of funding the inmate wage and discharge costs at all
correctional facilities

Expense and Equipment

From General Revenue Fund (0 F.T.E.).	\$3,639,888
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SECTION 9.055. — To the Department of Corrections

For the Office of the Director

For the purpose of funding the expenses and small equipment purchases
at any of the adult institutions department-wide

Expense and Equipment

From General Revenue Fund (0 F.T.E.).	\$17,418,120
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SECTION 9.060. — To the Department of Corrections

For the Office of the Director

For the purpose of funding the operational maintenance and repairs for
state-owned facilities

Expense and Equipment

From Facilities Maintenance Reserve Fund (0 F.T.E.)	\$1,218,750
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SECTION 9.065. — To the Department of Corrections

For the Office of the Director

For Public School Retirement Contributions

From General Revenue Fund (0 F.T.E.).	\$1,792
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SECTION 9.070. — To the Department of Corrections

For the Office of the Director

For the purpose of funding costs associated with increased inmate
population department-wide, including, but not limited to funding for
personal services, expense and equipment, contractual services,
repairs, renovations, and capital improvements, and that any funds that
may be saved from the contract for medical services be funded in the
following manner: 1) Residential Treatment Facilities, 2)Translator
services, and 3) Probation and Parole repositioning

From General Revenue Fund (0 F.T.E.).	\$31,755,958
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***SECTION 9.100.** — To the Department of Corrections

For the purpose of funding the Division of Human Services

Personal Service	\$4,153,830
Expense and Equipment.....	<u>271,145</u>
From General Revenue Fund.....	4,424,975

Expense and Equipment	
From Federal Funds.	<u>31,823</u>
Total (Not to exceed 127.58 F.T.E.).....	\$4,456,798

*I hereby veto \$10,608 for a pilot program to test Corrections staff for drugs and alcohol. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by \$10,608 from \$271,145 to \$260,537.
 From \$4,424,975 to \$4,414,367 in total from General Revenue Fund.
 From \$4,456,798 to \$4,446,190 in total from the section.

BOB HOLDEN, Governor

SECTION 9.105. — To the Department of Corrections

For the Division of Human Services

For the purpose of funding training costs department-wide

Expense and Equipment	
From General Revenue Fund (0 F.T.E.).	\$2,251,404

SECTION 9.110. — To the Department of Corrections

For the Division of Human Services

For the purpose of funding employee health and safety

Expense and Equipment	
From General Revenue Fund (0 F.T.E.).	\$414,367

SECTION 9.200. — To the Department of Corrections

For the purpose of funding the Division of Adult Institutions

For the Central Office

Personal Service	\$3,014,490
Expense and Equipment.....	<u>527,594</u>
From General Revenue Fund	3,542,084

Personal Service	
From Working Capital Revolving Fund.	<u>53,760</u>
Total (Not to exceed 108.70 F.T.E.).....	\$3,595,844

SECTION 9.205. — To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Jefferson City Correctional Center

Personal Service	
From General Revenue Fund	\$17,592,411
From Working Capital Revolving Fund	<u>188,161</u>
Total (Not to exceed 656.91 F.T.E.).....	\$17,780,572

SECTION 9.210. — To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Central Missouri Correctional Center at
Jefferson City
Personal Service
From General Revenue Fund (Not to exceed 276.87 F.T.E.) \$7,536,782

SECTION 9.215. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Women's Eastern Reception and
Diagnostic Center at Vandalia
Personal Service
From General Revenue Fund (Not to exceed 414.00 F.T.E.) \$11,180,680

SECTION 9.220. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Ozark Correctional Center at Fordland
Personal Service
From General Revenue Fund \$3,936,444
From Inmate Revolving Fund 157,182
Total (Not to exceed 149.39 F.T.E.) \$4,093,626

SECTION 9.225. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Moberly Correctional Center
Personal Service
From General Revenue Fund \$10,431,159
From Working Capital Revolving Fund 161,281
Total (Not to exceed 389.52 F.T.E.) \$10,592,440

SECTION 9.230. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Alcoa Correctional Center at Jefferson City
Personal Service
From General Revenue Fund (Not to exceed 290.01 F.T.E.) \$8,020,800

SECTION 9.235. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Missouri Eastern Correctional Center at
Pacific
Personal Service
From General Revenue Fund \$6,867,250
From Working Capital Revolving Fund 53,760
Total (Not to exceed 250.88 F.T.E.) \$6,921,010

SECTION 9.240. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Chillicothe Correctional Center
Personal Service
From General Revenue Fund (Not to exceed 140.49 F.T.E.) \$3,806,529

SECTION 9.245. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Boonville Correctional Center

Personal Service
From General Revenue Fund (Not to exceed 293.86 F.T.E.).. . . . \$8,099,364

SECTION 9.250. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Farmington Correctional Center
Personal Service
From General Revenue Fund (Not to exceed 534.80 F.T.E.).. . . . \$14,265,009

SECTION 9.251. — To the Board of Public Buildings
For the purpose of funding payment of rent by the Department of
Corrections (Division of Adult Institutions) to the Board
For the Farmington Correctional Center
Funds to be used by the Board for Personal Service \$1,216,390
Funds to be used by the Board for Expense and Equipment.. . . . 175,547
From General Revenue Fund (Not to exceed 40.76 F.T.E.). \$1,391,937

SECTION 9.255. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Farmington Boot Camp
Personal Service \$530,315
Expense and Equipment 167,295
From General Revenue Fund (Not to exceed 20.00 F.T.E.). \$697,610

SECTION 9.260. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Missouri Correctional Center at
Cameron
Personal Service
From General Revenue Fund (Not to exceed 510.54 F.T.E.).. . . . \$13,897,579

SECTION 9.265. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Potosi Correctional Center
Personal Service
From General Revenue Fund (Not to exceed 331.78 F.T.E.).. . . . \$8,989,169

SECTION 9.266. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of payment of annual fees and expenses of the bonds used
to finance the Potosi Correctional Center
Expense and Equipment
From General Revenue Fund (0 F.T.E.). \$13,650

SECTION 9.270. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Fulton Reception and Diagnostic Center
Personal Service
From General Revenue Fund (Not to exceed 316.16 F.T.E.).. . . . \$8,376,476

SECTION 9.271. — To the Board of Public Buildings

For the purpose of funding payment of rent by the Department of
Corrections (Division of Adult Institutions) to the Board
For the Fulton Reception and Diagnostic Center
Funds to be used by the Board for Personal Service \$568,545
Funds to be used by the Board for Expense and Equipment. 48,533
From General Revenue Fund (Not to exceed 19.90 F.T.E.). \$617,078

SECTION 9.275. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Tipton Correctional Center
Personal Service
From General Revenue Fund (Not to exceed 382.64 F.T.E.). \$10,152,374

SECTION 9.290. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Reception and Diagnostic Correctional Center at St.
Joseph
Personal Service
From General Revenue Fund (Not to exceed 598.00 F.T.E.). \$15,668,875

SECTION 9.295. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Maryville Treatment Center
Personal Service
From General Revenue Fund (Not to exceed 241.00 F.T.E.). \$6,390,634

SECTION 9.300. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Crossroads Correctional Center at
Cameron
Personal Service
From General Revenue Fund (Not to exceed 416.00 F.T.E.). \$10,759,855

SECTION 9.305. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Northeast Correctional Center at Bowling
Green
Personal Service
From General Revenue Fund (Not to exceed 555.00 F.T.E.). \$14,659,318

SECTION 9.310. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Eastern Reception and Diagnostic
Correctional Center at Bonne Terre
Personal Service
From General Revenue Fund (Not to exceed 3.00 F.T.E.). \$105,606

SECTION 9.320. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding payment of annual fees and expenses of the
bonds used to finance the Eastern Reception and Diagnostic Center
Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$8,405,597

SECTION 9.325. — To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the South Central Correctional Center at

Licking

Personal Service

From General Revenue Fund (Not to exceed 437.08 F.T.E.).. . . . \$11,708,682

SECTION 9.400. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding the Central Office

Personal Service \$2,023,906

Expense and Equipment. 113,054

From General Revenue Fund (Not to exceed 49.15 F.T.E.). \$2,136,960

SECTION 9.406. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding contractual services for physical health care

Expense and Equipment

From General Revenue Fund \$41,442,008

From Federal Funds. 1E

Total (0 F.T.E.). \$41,442,009

SECTION 9.407. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding mental health services

Personal Service and/or Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$9,185,997

SECTION 9.408. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding medical equipment

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$244,000

SECTION 9.409. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding medical staff

Personal Service and/or Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$65,910

SECTION 9.410. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding the provision of inmate jobs department-wide,
including, but not limited to, inmate employment, both institutional
and industrial, drug and alcohol treatment, and education, both
academic and vocational

Personal Service \$10,340,544

Expense and Equipment 11,338,930

From General Revenue Fund 21,679,474

Personal Service	1,010,353
Expense and Equipment.	<u>718,043</u>
From Working Capital Revolving Fund	1,728,396

Expense and Equipment	
From Correctional Substance Abuse Earnings Fund	<u>264,600</u>
Total (Not to exceed 300.50 F.T.E.).	\$23,672,470

SECTION 9.415. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding Missouri Vocational Enterprises

Personal Service	\$7,447,058
Expense and Equipment	<u>26,344,542</u>
From Working Capital Revolving Fund (Not to exceed 252.00 F.T.E.).	\$33,791,600

SECTION 9.416. — To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding the Private Sector/Prison Industry Enhancement

Program

Expense and Equipment

From Working Capital Revolving Fund (0 F.T.E.).	\$962,762
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***SECTION 9.500.** — To the Department of Corrections

For the purpose of funding the Board of Probation and Parole

Personal Service	\$58,744,835
Annual salary adjustment in accordance with Section 105.005, RSMo	1,260
Expense and Equipment.	<u>6,226,403</u>
From General Revenue Fund (Not to exceed 1,870.08 F.T.E.).	\$64,972,498

*I hereby veto \$995,556 for 28 additional Probation and Parole officers. This leaves funding for 10 new officers. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Service by \$995,556 from \$58,744,835 to \$57,749,279.

From \$64,972,498 to \$63,976,942 in total from General Revenue Fund.

From \$64,972,498 to \$63,976,942 in total from the section.

BOB HOLDEN, Governor

SECTION 9.505. — To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding the St. Louis Community Release Center

Personal Service

From General Revenue Fund (Not to exceed 135.71 F.T.E.).	\$3,712,088
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SECTION 9.510. — To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding the Kansas City Community Release Center

Personal Service

From General Revenue Fund (Not to exceed 76.69 F.T.E.).	\$2,103,945
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***SECTION 9.515.** — To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding Drug Courts and Local Sentencing Initiatives.

Funding which is made available to Drug Courts shall also be available to those courts that prior to placement of an offender in a Drug Court Program, the court, following arrest may suspend prosecution or any sentencing recommendation and order an assessment by the Division of Probation and Parole to include an evaluation of substance abuse history, risk assessment, and criminal history. In addition, to qualify for funding the courts shall require the offender to successfully complete a drug court program and the courts may expunge the record of those offenders under suspended imposition of sentence, or suspended execution of sentence.

Expense and Equipment. \$5,150,000

For the purpose of funding the Community Corrections Coordination Unit

Personal Service 345,475

Expense and Equipment. 4,817,417

The Department of Corrections shall contract with a community-based, not-for-profit agency certified by a recognized national body and demonstrates a record of providing successful job placement, training and retention services to provide an employment placement program for female inmates preparing for release from a state correctional facility and who will be returning or locating in the St. Louis Metropolitan area. Such a program shall include assessment, job readiness training, job placement, job retention services, and follow-up services. The department shall provide quarterly reports to the House of Representatives and Senate on the results of the program in order to show efficacy

Program Specific Distribution. 300,000

From General Revenue Fund 10,612,892

Personal Service 157,734

Expense and Equipment. 3,052,708

From Inmate Revolving Fund. 3,210,442

Total (Not to exceed 17.40 F.T.E.). \$13,823,334

*I hereby veto \$1,122,312 for the Community Corrections Coordination Unit. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding the Community Corrections Coordination Unit

Expense and Equipment by \$1,122,312 from \$4,817,417 to \$3,695,105.

From \$10,612,892 to \$9,490,580 in total from General Revenue Fund.

From \$13,823,334 to \$12,701,022 in total from the section.

BOB HOLDEN, Governor

Bill Totals

General Revenue. \$484,636,217

Federal Funds. 6,660,949

Other Funds. 42,827,457

Total. \$534,124,623

Approved June 22, 2001

HB 10 [CCS SCS HCS HB 10]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF MENTAL HEALTH, BOARD OF PUBLIC BUILDINGS, DEPARTMENT OF HEALTH AND MISSOURI HEALTH FACILITIES REVIEW COMMITTEE.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health, and the several divisions and programs thereof and the Missouri Health Facilities Review Committee to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each Department, Division, agency and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 10.005. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding Administration

Personal Service	\$7,441,664
Expense and Equipment.	<u>2,438,671</u>
From General Revenue Fund	9,880,335

Personal Service	406,757
Expense and Equipment.	<u>735,188</u>
From Federal Funds.	<u>1,141,945</u>
Total (Not to exceed 196.64 F.T.E.).	\$11,022,280

SECTION 10.010. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding the Office of Information Systems

Personal Service	\$3,023,148
Expense and Equipment	2,822,698
Personal Service and/or Expense and Equipment.	<u>335,905</u>
From General Revenue Fund	6,181,751

Personal Service.	36,576
Expenses and Equipment.	5,906,691
Personal Service and/or Expense and Equipment.	<u>4,064</u>
From Federal Funds.	<u>5,947,331</u>

Total (Not to exceed 83.34 F.T.E.) \$12,129,082

SECTION 10.015. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding insurance, private pay, licensure fee, and/or
Medicaid refunds by state facilities operated by the Department of
Mental Health

From General Revenue Fund \$50,000

For the payment of refunds set off against debts as required by Section
143.786, RSMo

From Debt Offset Escrow Fund 70,000E

Total (0 F.T.E.) \$120,000

SECTION 10.017. — There is transferred out of the State Treasury,
chargeable to the Escheats Fund, Fifty Thousand Dollars (\$50,000) to
the Mental Health Trust Fund

From Escheats Fund \$50,000E

SECTION 10.020. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding receipt and disbursement of donations and gifts
which may become available to the Department of Mental Health
during the year (excluding federal grants and funds)

Personal Service \$736,165

Expense and Equipment 1,283,486

From Mental Health Trust Fund (Not to exceed 6.00 F.T.E.) \$2,019,651

SECTION 10.025. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding operational maintenance and repairs for
state-owned facilities

Expense and Equipment

From Facilities Maintenance and Reserve Fund (0 F.T.E.) \$1,197,230

SECTION 10.030. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding federal grants which become available
between sessions of the General Assembly

Personal Service and/or Expense and Equipment

From Federal Funds (Not to exceed 4.00 F.T.E.) \$350,840E

SECTION 10.035. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding the Caring Communities Program \$3,314,137

Personal Service 83,442

Expense and Equipment 12,406

From General Revenue Fund 3,409,985

For the Caring Communities Program

From Federal Funds 2,104,583

Total (Not to exceed 1.71 F.T.E.) \$5,514,568

SECTION 10.045. — To the Department of Mental Health

For the Office of the Director

For the purpose of funding work therapy for client workers at state

agencies

Personal Service \$80,519

Expense and Equipment. 600

From Mental Health Interagency Payments Fund (Not to exceed

6.00 F.T.E.). \$81,119

SECTION 10.060. — There is transferred out of the State Treasury,
chargeable to the General Revenue Reimbursements Fund,
Twenty-two Million, Five Hundred Eleven Thousand, Eight Hundred
Dollars (\$22,511,800) to the General Revenue Fund

From General Revenue Reimbursements Fund. \$22,511,800

SECTION 10.105. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the administration of statewide

comprehensive alcohol and drug abuse prevention and treatment

programs

Personal Service \$1,491,220

Expense and Equipment. 58,213

From General Revenue Fund 1,549,433

Personal Service 798,380

Expense and Equipment. 824,783

From Federal Funds 1,623,163

Personal Service 204,373

Expense and Equipment. 51,204

From Health Initiatives Fund 255,577

Personal Service 88,521

Expense and Equipment. 52,372

From Mental Health Earnings Fund 140,893

For statewide needs assessments 400,000

For an interstate study to develop a standardized approach for measuring

the performance and outcomes of substance abuse treatment

programs. This is a three-year federal grant initially appropriated in

Fiscal Year 2000.

Expense and Equipment. 502,143From Federal Funds. 902,143

Total (Not to exceed 67.15 F.T.E.). \$4,471,209

SECTION 10.110. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding prevention and education services 435,540

Personal Service 7,364

From General Revenue Fund 442,904

For prevention and education services 2,736,915

Personal Service	228,162
Expense and Equipment.....	<u>78,165</u>
From Federal Funds	3,043,242

For tobacco enforcement

Provided that no person under the age of eighteen shall be used as
either an employee or a volunteer for the purposes of enforcement of
tobacco laws

Personal Service	236,110
Expense and Equipment.....	<u>117,820</u>
From Federal Funds	353,930

For the purpose of funding Kids Beat Program

Expense and Equipment

From Federal Funds	119,000
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For a state incentive program and a community high-risk youth program

Personal Service.....	178,588
Expense and Equipment	<u>2,965,029</u>
From Federal Funds	3,143,617

For Community 2000 Team Programs

From General Revenue Fund.....	230,000
From Federal Funds	2,317,651

For school-based alcohol and drug abuse prevention programs

From Federal Funds.....	<u>187,827</u>
Total (Not to exceed 17.20 F.T.E.).....	\$9,838,171

SECTION 10.115. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the treatment of alcohol and drug abuse.....	\$17,574,763
Personal Service.....	232,139
Expense and Equipment	2,540,765
Personal Service and/or Expense and Equipment	25,793
For the purpose of funding the treatment of alcohol and drug abuse using General Revenue in place of Health Initiatives Fund	3,553,414

For the purpose of expanding adolescent substance abuse services

across the state. Funds are to be distributed using a formula,
developed by the Department of Mental Health, ensuring
that priority is given to underserved populations and those
at greater risk of abusing alcohol and drugs

1,250,316

For the purpose of funding adult substance abuse services in service
area #6.....

From General Revenue Fund	<u>300,000</u>
	25,477,190

For treatment of alcohol and drug abuse	22,600,168
Personal Service.....	107,018
Expense and Equipment.....	407,045
Personal Service and/or Expense and Equipment	<u>11,891</u>

From Federal Funds 23,126,122

For treatment of alcohol and drug abuse

From Health Initiatives Fund. 4,558,388

Total (Not to exceed 10.00 F.T.E.). \$53,161,700

SECTION 10.120. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding treatment of compulsive gambling \$412,798

 Personal Service 34,704

 Expense and Equipment. 5,194

From Compulsive Gamblers Fund (Not to exceed 1.00 F.T.E.). \$452,696

SECTION 10.125. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the Substance Abuse Traffic Offender Program

From Federal Funds. \$407,458

From Health Initiatives Fund 1,365,680

From Mental Health Earnings Fund 1,732,097E

Total (0 F.T.E.). \$3,505,235

SECTION 10.205. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding division administration

 Personal Service \$1,574,494

 Expense and Equipment. 343,261

From General Revenue Fund 1,917,755

 Personal Service 415,320

 Expense and Equipment. 295,401

From Federal Funds. 710,721

For the committee on Minority Special Health, Psychological and Social

 Needs of Older Individuals and the Institute on Minority Health &

 Aging

 Expense and Equipment

From General Revenue 28,000

From Federal Funds 7,000

For suicide prevention initiatives

 Expense and Equipment

From Federal Funds 150,000

Total (Not to exceed 46.93 F.T.E.). \$2,813,476

***SECTION 10.210.** — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding adult community programs provided that up to

 ten percent of this appropriation may be used for services for youth

 and \$584,000 shall be used to purchase adult

 acute beds. \$72,966,910

 Personal Service. 2,049,635

 Expense and Equipment. 3,838,611

Personal Service and/or Expense and Equipment.	227,737
From General Revenue Fund	79,082,893
For adult community programs	17,073,733
Personal Service.	115,546
Expense and Equipment.	1,849,386
Personal Service and/or Expense and Equipment.	12,838
From Federal Funds	19,051,503
For adult community programs	
From payments by the Department of Social Services for supported	
community living for Comprehensive Psychiatric Services clients in	
lieu of Supplemental Nursing Care payments	
From Mental Health Interagency Payments Fund	250,000
For adult community programs	
From Health Initiatives Fund.	70,624
For adult community programs in counties serving a disproportionate share	
of forensic clients	
From General Revenue.	200,000
Total (Not to exceed 56.89 F.T.E.).	\$98,655,020

*I hereby veto \$584,000 general revenue for additional adult acute care beds for the Comprehensive Psychiatric Services program and \$200,000 general revenue for payments to counties with a disproportionate share of forensic clients. The department is conducting a study on the need for new beds and additional funding should wait for the outcome of that study. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding adult community programs provided that up to ten percent of this appropriation may be used for youth and \$584,000 shall be used to purchase adult acute beds by \$584,000 from \$72,966,910 to \$72,382,910.
From \$79,082,893 to \$78,498,893 in total from General Revenue Fund.

For the adult community program in counties serving a disproportionate share of forensic clients by \$200,000 from \$200,000 to \$0 from General Revenue Fund.
From \$98,655,020 to \$97,871,020 in total for the section.

BOB HOLDEN, Governor

SECTION 10.215. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding nursing home reform requirements of the
Omnibus Budget Reconciliation Act of 1987, including specialized
services

From General Revenue Fund	\$56,000
From Federal Funds	168,000
Total (0 F.T.E.).	\$224,000

SECTION 10.220. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of reimbursing attorneys, physicians, and counties

for fees in involuntary civil commitment procedures.	\$950,000E
For distribution through the Office of Administration to counties pursuant to Section 56.700, RSMo.	<u>150,000</u>
From General Revenue Fund (0 F.T.E.).	\$1,100,000

SECTION 10.225. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding programs for the homeless mentally ill

From General Revenue Fund	\$906,392
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For programs for the homeless mentally ill	3,076,359
Expense and Equipment	<u>1,654,680</u>
From Federal Funds	<u>4,731,039</u>
Total (0 F.T.E.).	\$5,637,431

SECTION 10.230. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding forensic support services

Personal Service	\$627,119
Expense and Equipment.	<u>122,638</u>
From General Revenue Fund (Not to exceed 17.39 F.T.E.).	\$749,757

SECTION 10.235. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding youth community programs, provided
that up to ten percent of this appropriation may be used for

services for adults.	\$21,295,796
Personal Service.	835,884
Expense and Equipment.	<u>2,232,641</u>
Personal Service and/or Expense and Equipment.	<u>92,876</u>
From General Revenue Fund	<u>24,457,197</u>

For youth community programs	3,696,148
Personal Service.	89,465
Expense and Equipment	<u>2,598,607</u>
Personal Service and/or Expense and Equipment.	<u>9,940</u>
From Federal Funds	<u>6,394,160</u>

For youth community programs

From Health Initiatives Fund.	<u>598,888</u>
Total (Not to exceed 25.05 F.T.E.).	\$31,450,245

SECTION 10.240. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding services for children who are clients of the

Divisions of Youth Services and Family Services

Personal Service.	\$917,027
Expense and Equipment.	<u>320,229</u>
Personal Service and/or Expense and Equipment.	<u>101,892</u>
From Mental Health Interagency Payments Fund (Not to exceed 38.00 F.T.E.)	\$1,339,148

SECTION 10.310. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding fuel and utility expenses at state facilities
operated by the Division of Comprehensive Psychiatric Services,
provided that up to three percent of this appropriation may be used for
facilities operated by the Division of Mental Retardation and
Developmental Disabilities

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$5,144,730

SECTION 10.315. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purchase and administration of new medication therapies

Expense and Equipment

From General Revenue Fund \$9,178,336

From Federal Funds. 916,243

Total (0 F.T.E.). \$10,094,579

SECTION 10.325. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding costs for forensic clients resulting from loss of
benefits under provisions of the Social Security Domestic
Employment Reform Act of 1994

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$500,000

SECTION 10.335. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Fulton State Hospital

Personal Service. \$36,149,448

Expense and Equipment 4,843,007

Personal Service and/or Expense and Equipment 4,016,605

For alcohol and drug treatment

Personal Service. 602,385

Expense and Equipment. 207,355

Personal Service and/or Expense and Equipment. 66,932

From General Revenue Fund (Not to exceed 1,435.43 F.T.E.). \$45,885,732

SECTION 10.340. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Northwest Missouri Psychiatric Rehabilitation
Center

Personal Service. \$9,897,413

Expense and Equipment 1,688,571

Personal Service and/or Expense and Equipment. 1,099,713

From General Revenue Fund 12,685,697

Personal Service. 393,404

Personal Service and/or Expense and Equipment. 43,712

From Federal Funds 437,116

For psychiatric services

Personal Service.....	360,756
Personal Service and/or Expense and Equipment.....	<u>40,084</u>
From Mental Health Trust Fund	400,840

For direct and/or contract provision of children's services

Personal Service.....	1,817,633
Expense and Equipment.....	306,492
Personal Service and/or Expense and Equipment.....	<u>201,959</u>
From General Revenue Fund	<u>2,326,084</u>
Total (Not to exceed 487.63 F.T.E.).....	\$15,849,737

SECTION 10.345. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding St. Louis Psychiatric Rehabilitation Center

Personal Service.....	\$16,154,919
Expense and Equipment.....	2,203,198
Personal Service and/or Expense and Equipment.....	<u>1,794,991</u>
From General Revenue Fund	20,153,108

Personal Service.....	159,250
Personal Service and/or Expense and Equipment.....	<u>17,695</u>
From Federal Funds.....	<u>176,945</u>
Total (Not to exceed 628.88 F.T.E.).....	\$20,330,053

SECTION 10.350. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southwest Missouri Psychiatric Rehabilitation Center

Personal Service.....	\$2,749,023
Expense and Equipment.....	528,773
Personal Service and/or Expense and Equipment.....	<u>305,447</u>
From General Revenue Fund (Not to exceed 109.17 F.T.E.).....	\$3,583,243

SECTION 10.355. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Cottonwood Residential Treatment Center

Personal Service.....	\$1,719,428
Expense and Equipment	326,468
Personal Service and/or Expense and Equipment.....	<u>191,047</u>
From General Revenue Fund (Not to exceed 75.75 F.T.E.).....	\$2,236,943

SECTION 10.360. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Hawthorn Children's Psychiatric Hospital

Personal Service.....	\$5,148,178
Expense and Equipment	849,077
Personal Service and/or Expense and Equipment.....	<u>572,020</u>
From General Revenue Fund (Not to exceed 200.48 F.T.E.).....	\$6,569,275

SECTION 10.365. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Metropolitan St. Louis Psychiatric Center

Personal Service.	\$10,266,503
Expense and Equipment	3,174,177
Personal Service and/or Expense and Equipment.	<u>1,140,722</u>
From General Revenue Fund	14,581,402

Personal Service.	143,918
Personal Service and/or Expense and Equipment.	<u>15,991</u>
From Federal Funds	159,909

For alcohol and drug treatment	
Personal Service	395,813
Personal Service and/or Expense and Equipment.	<u>43,979</u>
From General Revenue Fund	<u>439,792</u>
Total (Not to exceed 403.78 F.T.E.).	\$15,181,103

SECTION 10.370. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Mid-Missouri Mental Health Center

Personal Service.	\$5,669,695
Expense and Equipment	1,190,285
Personal Service and/or Expense and Equipment.	<u>629,966</u>
From General Revenue Fund	7,489,946

Personal Service.	252,734
Expense and Equipment	760
Personal Service and/or Expense and Equipment.	<u>28,082</u>
From Federal Funds	281,576

For services for children and youth

Personal Service.	1,785,020
Expense and Equipment.	117,550
Personal Service and/or Expense and Equipment	<u>198,335</u>
From General Revenue Fund	<u>2,100,905</u>
Total (Not to exceed 258.75 F.T.E.).	\$9,872,427

SECTION 10.375. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southeast Missouri Mental Health Center

Personal Service.	\$14,201,901
Expense and Equipment.	1,620,458
Personal Service and/or Expense and Equipment	<u>1,577,989</u>
From General Revenue Fund (Not to exceed 556.25 F.T.E.).	\$17,400,348

SECTION 10.376. — To the Board of Public Buildings

For the Department of Mental Health

For operation and maintenance of the Southeast Missouri Mental Health

Center

Expense and Equipment

From General Revenue Fund (0 F.T.E.).	\$129,322
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SECTION 10.380. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Western Missouri Mental Health Center for
 lease/purchase payments and related expenses, operation of the current
 facility, and any other expenses related to replacement of the facility

Personal Service.....	\$17,239,630
Expense and Equipment.....	2,705,685
Personal Service and/or Expense and Equipment.....	<u>1,915,514</u>
From General Revenue Fund.....	21,860,829

For the Western Missouri Mental Health Center and/or contracting for children's services in the
 Northwest Region

Personal Service.....	802,542
Expense and Equipment.....	83,417
Personal Service and/or Expense and Equipment.....	<u>89,171</u>
From General Revenue Fund.....	975,130

For alcohol and drug treatment

Personal Service.....	298,669
Expense and Equipment.....	16,313
Personal Service and/or Expense and Equipment.....	<u>33,185</u>
From General Revenue Fund.....	348,167

Personal Service.....	540,423
Expense and Equipment.....	107,990
Personal Service and/or Expense and Equipment.....	<u>60,047</u>
From Federal Funds.....	708,460
Total (Not to exceed 706.84 F.T.E.).....	\$23,892,586

SECTION 10.385. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding the Sexually Violent Predator Program

Personal Service.....	\$2,514,869
Expense and Equipment.....	1,099,179
Personal Service and/or Expense and Equipment.....	<u>279,429</u>
From General Revenue Fund (Not to exceed 98.90 F.T.E.).....	\$3,893,477

SECTION 10.405. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding division administration

Personal Service.....	\$1,270,645
Expense and Equipment.....	<u>247,657</u>
From General Revenue Fund.....	1,518,302

Personal Service.....	50,922
Expense and Equipment.....	<u>7,195</u>
From Federal Funds.....	58,117
Total (Not to exceed 30.75 F.T.E.).....	\$1,576,419

SECTION 10.415. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding community programs

From General Revenue Fund.....	\$75,353,644
From Federal Funds.....	1,200,000

From General Revenue Reimbursements Fund	4,544,329
For consumer and family-directed supports/in-home services/ choices for families	
From General Revenue Fund	22,003,479
For services for children in the custody of the Division of Family Services	
From Mental Health Interagency Payments Fund	1,049,857
For SB 40 Board tax funds to be used as match for Medicaid initiatives for clients of the Division	
From Mental Health Trust Fund	5,852,732E
For the purpose of funding programs and in-home family directed services for persons with autism and their families	
From General Revenue Fund	4,057,273
For early childhood intervention services	
From General Revenue Fund	1,400,135
From Federal Funds	3,763,919
From Mental Health Interagency Payments Fund.	<u>4,547,312</u>
Total (0 F.T.E.).	\$123,772,680

*SECTION 10.420. — To the Department of Mental Health	
For the Division of Mental Retardation-Developmental Disabilities	
For the purpose of funding family support loans pursuant to Section 633.185, RSMo	
From Family Support Loan Fund	\$291,305
For the purpose of funding family support stipends pursuant to Section 633.180, RSMo	
From General Revenue Fund	<u>879,789</u>
Total (0 F.T.E.).	\$1,171,094

*I hereby veto \$218,000 general revenue for the family support stipend program. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding family support stipends pursuant to Section 633.180, RSMo by \$218,000 from \$879,789 to \$661,789 from General Revenue Fund.
From \$1,171,094 to \$953,094 in total for the section.

BOB HOLDEN, Governor

SECTION 10.425. — To the Department of Mental Health	
For the Division of Mental Retardation-Developmental Disabilities	
For the purpose of funding community support staff	
Personal Service.	\$984,596
Expense and Equipment.	2,090,092
Personal Service and/or Expense and Equipment.	<u>109,399</u>
From General Revenue Fund	3,184,087
Personal Service.	8,590,200

Expenses and Equipment.	1,348,446
Purchase of Community Service.	8,179,464
Personal Service and/or Expense and Equipment.	<u>954,467</u>
From Federal Funds	<u>19,072,577</u>
Total (Not to exceed 298.35 F.T.E.).	\$22,256,664

SECTION 10.430. — To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding nursing home reform requirements of the
 Omnibus Budget Reconciliation Act of 1987

Personal Service	
From General Revenue Fund	\$82,357
From Federal Funds	<u>223,748</u>
Total (Not to exceed 7.46 F.T.E.).	\$306,105

SECTION 10.435. — To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding developmental disabilities services

Personal Service	\$326,019
Expense and Equipment	<u>1,187,593</u>
From Federal Funds (Not to exceed 7.98 F.T.E.).	\$1,513,612

SECTION 10.500. — To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Albany Regional Center

Personal Service.	\$1,207,947
Expense and Equipment	258,252
Personal Service and/or Expense and Equipment.	<u>134,216</u>
From General Revenue Fund (Not to exceed 41.38 F.T.E.).	\$1,600,415

SECTION 10.505. — To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Central Missouri Regional Center

Personal Service.	\$1,329,547
Expense and Equipment.	154,446
Personal Service and/or Expense and Equipment.	<u>147,727</u>
From General Revenue Fund (Not to exceed 48.88 F.T.E.).	\$1,631,720

SECTION 10.510. — To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Hannibal Regional Center

Personal Service.	\$1,610,033
Expense and Equipment.	319,327
Personal Service and/or Expense and Equipment.	<u>178,892</u>
From General Revenue Fund (Not to exceed 56.13 F.T.E.).	\$2,108,252

SECTION 10.515. — To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Joplin Regional Center

Personal Service.	\$1,514,885
Expense and Equipment.	361,388
Personal Service and/or Expense and Equipment.	<u>168,320</u>

From General Revenue Fund (Not to exceed 53.06 F.T.E.). \$2,044,593

SECTION 10.520. — To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Kansas City Regional Center

Personal Service. \$2,168,475
Expense and Equipment. 381,393
Personal Service and/or Expense and Equipment. 240,942
From General Revenue Fund 2,790,810

Expense and Equipment
From Federal Funds. 5,595
Total (Not to exceed 72.91 F.T.E.). \$2,796,405

SECTION 10.525. — To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Kirksville Regional Center

Personal Service. \$1,139,423
Expense and Equipment 263,867
Personal Service and/or Expense and Equipment. 126,603
From General Revenue Fund (Not to exceed 41.29 F.T.E.). \$1,529,893

SECTION 10.530. — To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Poplar Bluff Regional Center

Personal Service. \$1,367,992
Expense and Equipment 238,844
Personal Service and/or Expense and Equipment. 151,999
From General Revenue Fund (Not to exceed 46.08 F.T.E.). \$1,758,835

SECTION 10.535. — To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Rolla Regional Center

Personal Service. \$1,449,565
Expense and Equipment 173,744
Personal Service and/or Expense and Equipment. 161,063
From General Revenue Fund (Not to exceed 51.88 F.T.E.). \$1,784,372

SECTION 10.540. — To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Sikeston Regional Center

Personal Service. \$1,310,711
Expense and Equipment. 236,369
Personal Service and/or Expense and Equipment. 145,634
From General Revenue Fund 1,692,714

Expense and Equipment
From Federal Funds. 5,595
Total (Not to exceed 46.54 F.T.E.). \$1,698,309

SECTION 10.545. — To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Springfield Regional Center	
Personal Service.....	\$1,687,545
Expense and Equipment ..	379,912
Personal Service and/or Expense and Equipment..	<u>187,505</u>
From General Revenue Fund (Not to exceed 60.23 F.T.E.).....	\$2,254,962

SECTION 10.550. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the St. Louis Regional Center

Personal Service.....	\$3,471,845
Expense and Equipment ..	408,596
Personal Service and/or Expense and Equipment..	<u>385,761</u>
From General Revenue Fund ..	4,266,202

Expense and Equipment	
From Federal Funds.....	<u>11,190</u>
Total (Not to exceed 124.77 F.T.E.) ..	\$4,277,392

SECTION 10.560. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding fuel and utility expenses at state facilities
operated by the Division of Mental Retardation- Developmental
Disabilities, provided that up to three percent of this appropriation may
be used for facilities operated by the Division of Comprehensive
Psychiatric Services

Expense and Equipment	
From General Revenue Fund (0 F.T.E.) ..	\$3,143,887

SECTION 10.570. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Bellefontaine Habilitation Center

Personal Service.....	\$19,350,963
Expense and Equipment.....	1,794,102
Personal Service and/or Expense and Equipment..	<u>2,150,107</u>
From General Revenue Fund ..	23,295,172

Personal Service.....	978,080
Expense and Equipment ..	526,906
Personal Service and/or Expense and Equipment..	<u>108,675</u>
From Federal Funds.....	<u>1,613,661</u>
Total (Not to exceed 973.62 F.T.E.) ..	\$24,908,833

SECTION 10.575. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Higginsville Habilitation Center

Personal Service.....	\$8,034,093
Expense and Equipment.....	1,446,522
Personal Service and/or Expense and Equipment..	<u>892,677</u>
From General Revenue Fund ..	10,373,292

Personal Service.....	216,856
Personal Service and/or Expense and Equipment..	<u>24,095</u>

From Federal Funds 240,951

For Northwest Community Services

Personal Service 1,929,241

Personal Service and/or Expense and Equipment. 214,360

From General Revenue Fund 2,143,601

Personal Service. 598,795

Personal Service and/or Expense and Equipment. 66,533

From Federal Funds. 665,328

Total (Not to exceed 521.69 F.T.E.). \$13,423,172

SECTION 10.580. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Marshall Habilitation Center

Personal Service. \$19,001,672

Expense and Equipment 1,644,358

Personal Service and/or Expense and Equipment. 2,111,297

From General Revenue Fund 22,757,327

Personal Service. 1,493,263

Expense and Equipment 310,460

Personal Service and/or Expense and Equipment. 165,918

From Federal Funds. 1,969,641

Total (Not to exceed 1,003.65 F.T.E.). \$24,726,968

SECTION 10.585. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Nevada Habilitation Center

Personal Service. \$7,797,004

Expense and Equipment. 1,760,704

Personal Service and/or Expense and Equipment. 866,334

From General Revenue Fund (Not to exceed 352.25 F.T.E.). \$10,424,042

SECTION 10.590. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding St. Louis Developmental Disabilities

Treatment Center

Personal Service. \$14,989,223

Expense and Equipment. 1,900,000

Personal Service and/or Expense and Equipment. 1,665,469

From General Revenue Fund 18,554,692

Personal Service. 675,906

Personal Service and/or Expense and Equipment. 75,101

From Federal Funds. 751,007

Total (Not to exceed 767.96 F.T.E.). \$19,305,699

SECTION 10.591. — To the Board of Public Buildings

For the operation and maintenance of St. Louis Developmental

Disabilities Treatment Center improvements

Expense and Equipment

From General Revenue Fund (0 F.T.E.). \$84,861

SECTION 10.595. — To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Southeast Missouri Residential Services

Personal Service. \$4,848,859

Expense and Equipment. 734,085

Personal Service and/or Expense and Equipment. 538,762

From General Revenue Fund 6,121,706

Personal Service. 79,909

Expense and Equipment 20,000

Personal Service and/or Expense and Equipment. 8,879

From Federal Funds. 108,788

Total (Not to exceed 240.02 F.T.E.). \$6,230,494

SECTION 10.600. — To the Department of Health

For the Office of the Director

For the purpose of funding program operations and support

Personal Service \$2,110,987

Expense and Equipment. 157,155

From General Revenue Fund 2,268,142

Personal Service 1,107,943

Expense and Equipment. 550,126

From Federal Funds 1,658,069

For the Office of Minority Health

Personal Service. 213,396

Expense and Equipment 113,637

From General Revenue Fund. 327,033

Expense and Equipment and/or Program Specific Distribution

From Federal Funds. \$106,904

For the Institute on Minority Health and Aging

Expense and Equipment

From General Revenue Fund. 210,000

Total (Not to exceed 86.20 F.T.E.). \$4,570,148

SECTION 10.605. — To the Department of Health

For the purpose of funding the Center for Health Information and Evaluation

For the purpose of funding program operations and support

Personal Service \$2,503,843

Expense and Equipment. 985,907

From General Revenue Fund 3,489,750

Personal Service 3,356,498

Expense and Equipment. 4,129,375

From Federal Funds 7,485,873

Expense and Equipment

From Missouri Public Health Services Fund	50,000
Personal Service	112,942
Expense and Equipment.	<u>18,000</u>
From Workers' Compensation Fund	<u>130,942</u>
Total (Not to exceed 160.34 F.T.E.).	\$11,156,565

SECTION 10.610. — To the Department of Health
 For the Center for Health Information and Evaluation
 For the purpose of paying the fees of local registrars of vital records in
 accordance with Section 193.305, RSMo
 From General Revenue Fund (0 F.T.E.). \$155,000

SECTION 10.615. — To the Department of Health
 For the Center for Local Public Health Services
 For the purpose of funding program operations and support
 Personal Service \$495,795
 Expense and Equipment. 77,286
 From General Revenue Fund 573,081

Personal Service 89,556
 Expense and Equipment. 10,692
 From Federal Funds 100,248

Personal Service 89,914
 Expense and Equipment. 162,097
 From Department of Health Donated Fund. 252,011
 Total (Not to exceed 14.50 F.T.E.). \$925,340

SECTION 10.620. — To the Department of Health
 For the Center for Local Public Health Services
 For the purpose of funding core public health functions and related
 expenses
 From General Revenue Fund (0 F.T.E.). \$9,662,092

SECTION 10.625. — To the Department of Health
 For the Center for Community Development and Health Care Access
 For the purpose of funding program operations and support
 Personal Service \$201,442
 Expense and Equipment. 41,240
 From General Revenue Fund 242,682

Personal Service 515,024
 Expense and Equipment. 348,233
 From Federal Funds 863,257

Personal Service
 From Health Access Incentive Fund 82,264

Personal Service 62,756
 Expense and Equipment. 22,500
 From Professional and Practical Nursing Student Loan and Nurse

Loan Repayment Fund 85,256

For Caring Communities

From General Revenue Fund 2,223,774
 From Federal Funds 1,218,333
 Total (Not to exceed 19.00 F.T.E.). \$4,715,566

SECTION 10.630. — To the Department of Health

For the Center for Community Development and Health Care Access

For the purpose of funding the Community Health Assessment Resource

Team

Personal Service \$346,890
 Expense and Equipment 160,334
 From General Revenue Fund 507,224

Personal Service 121,808

Expense and Equipment. 10,000

From Federal Funds 131,808
 Total (Not to exceed 11.50 F.T.E.). \$639,032

***SECTION 10.635.** — To the Department of Health

For the Center for Community Development and Health Care Access

For the purpose of funding the Primary Care Resource Initiative Program

From General Revenue. \$636,000
 From Health Access Incentive Fund 4,054,000
 From Department of Health Donated Fund. 850,000
 Total (0 F.T.E.). \$5,540,000

*I hereby veto \$236,000 general revenue for the Area Health Education Centers (AHECs). A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the Primary Care Resource Initiative Program by \$236,000 from \$636,000 to \$400,000 from General Revenue Fund.

From \$5,540,000 to \$5,304,000 in total for the section.

BOB HOLDEN, Governor

SECTION 10.640. — To the Department of Health

For the Center for Community Development and Health Care Access

For the purpose of funding the Financial Aid to Medical Students and

Medical School Loan Repayment Programs in accordance with

Chapter 191, RSMo

From General Revenue Fund \$13,950
 From Federal Funds 214,446
 From Medical School Loan Repayment Fund 50,000
 Total (0 F.T.E.). \$278,396

SECTION 10.645. — To the Department of Health

For the Center for Community Development and Health Care Access

For the purpose of funding the Nurse Loan and Nurse Loan Repayment

Programs in accordance with Chapter 335, RSMo

From Federal Funds. \$60,000

From Professional and Practical Nursing Student Loan and Nurse	
Loan Repayment Fund	<u>450,000</u>
Total (0 F.T.E.).	\$510,000

SECTION 10.655. — To the Department of Health

For the Division of Administration

For the purpose of funding program operations and support

Personal Service	\$934,624
Expense and Equipment.	<u>303,467</u>
From General Revenue Fund	1,238,091

Personal Service	1,279,008
Expense and Equipment.	<u>2,388,125</u>
From Federal Funds	3,667,133

Personal Service	115,880
Expense and Equipment.	<u>419,280</u>
From Missouri Public Health Services Fund	535,160

Expense and Equipment	
From Health Access Incentive Fund	7,000
From Department of Health Document Services Fund	225,000
From Workers' Compensation Fund	8,000
From Department of Health Donated Fund	1,496,604

For the purpose of funding federal grants which may become available

between sessions of the General Assembly

Personal Service and/or Expense and Equipment

From Federal Funds	5,000,000
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For the purpose of funding receipt and disbursement of donations, gifts,
and grants which may become available to the department during the
year (excluding federal grants and funds)

Personal Service and/or Expense and Equipment

From Department of Health Donated Fund.	<u>2,000,000</u>
Total (Not to exceed 70.00 F.T.E.).	\$14,176,988

SECTION 10.660. — To the Department of Health

For the Division of Administration

For the purpose of funding preventive health services under the provisions
of the Preventive Health Services Block Grant

From Federal Funds (0 F.T.E.).	\$2,137,788
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SECTION 10.665. — To the Department of Health

For the Division of Administration

For the purpose of funding Aid to Local Governmental Health Facilities in
accordance with Chapter 189, RSMo

From General Revenue Fund (0 F.T.E.).	\$23,505
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SECTION 10.670. — To the Department of Health

For the Division of Administration

For the purpose of funding the payment of refunds set off against debts in
accordance with Section 143.786, RSMo
From Debt Offset Escrow Fund (0 F.T.E.) \$50,000E

SECTION 10.675. — To the Department of Health

For the Division of Administration

For the purpose of funding the State Public Health Laboratory

Personal Service	\$1,960,055
Expense and Equipment.	<u>1,320,766</u>
From General Revenue Fund	3,280,821

Personal Service	1,068,677
Expense and Equipment.	<u>2,496,174</u>
From Federal Funds	3,564,851

Personal Service	725,099
Expense and Equipment.	<u>1,483,300</u>
From Missouri Public Health Services Fund	2,208,399
Total (Not to exceed 108.97 F.T.E.).	\$9,054,071

SECTION 10.680. — There is transferred out of the State Treasury,
chargeable to the Health Initiatives Fund, Four Million, Two
Hundred Sixty-eight Thousand, Three Dollars (\$4,268,003) to the
Health Access Incentive Fund

From Health Initiatives Fund. \$4,268,003

SECTION 10.685. — To the Department of Health

For the Missouri Health Facilities Review Committee

For the purpose of funding program operations and support

Personal Service	\$254,835
Expense and Equipment.	<u>67,891</u>
From General Revenue Fund (Not to exceed 8.00 F.T.E.).	\$322,726

SECTION 10.690. — To the Department of Health

For the Division of Environmental Health and Communicable Disease
Prevention

For the purpose of funding program operations and support

Personal Service	\$3,404,026
Expense and Equipment.	<u>4,158,334</u>
From General Revenue Fund	7,562,360

Personal Service	4,016,373
Expense and Equipment	<u>15,017,822</u>
From Federal Funds	19,034,195

Personal Service	169,422
Expense and Equipment.	<u>70,532</u>
From Hazardous Waste Remedial Fund	239,954

Personal Service	80,358
Expense and Equipment.	<u>235,050</u>
From Missouri Public Health Services Fund	315,408

For the purpose of funding medications	
From General Revenue Fund	2,200,000
From Federal Funds.	<u>9,213,055</u>
Total (Not to exceed 213.35 F.T.E.).	\$38,564,972

SECTION 10.695. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding program operations and support

Personal Service	\$1,654,981
Expense and Equipment.	<u>843,180</u>
From General Revenue Fund	2,498,161
Personal Service	1,786,212
Expense and Equipment.	<u>3,416,786</u>
From Federal Funds	5,202,998

Personal Service	
From Health Initiatives Fund	39,818

For service coordination and related expenses (to allow the Department the ability to contract for these services at the local level when possible)

Personal Service and/or Expense and Equipment	
From General Revenue Fund	1,037,836
From Federal Funds.	<u>997,181</u>
Total (Not to exceed 177.19 F.T.E.).	\$9,775,994

SECTION 10.697. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding sexual assault prevention education and victim services

From Federal Funds (0 F.T.E.).	\$789,134
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SECTION 10.700. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding maternal and child health services, including rape medical examinations, Sudden Infant Death Syndrome (SIDS) payments, and maternal and child health services from sources other than the Maternal and Child Health Block Grant

From General Revenue Fund (0 F.T.E.).	\$1,916,971
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SECTION 10.705. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding maternal and child health services under the provisions of the Maternal and Child Health Block Grant

From Federal Funds (0 F.T.E.).	\$6,585,000
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SECTION 10.710. — To the Department of Health

For the Division of Maternal, Child and Family Health

- For the purpose of funding family planning services, pregnancy testing and follow-up services, provided that none of these funds appropriated herein may be expended to directly or indirectly subsidize abortion services or administrative expenses. Abortion services include

performing, assisting with, or directly referring for abortions, or encouraging or counseling patients to have abortions. Family planning services are preconception services that limit or enhance fertility, including contraception methods, the management of infertility, preconception counseling, education, and general reproductive health care. Follow-up services are services that supplement initial consultations for family planning services and pregnancy testing but do not include pregnancy or childbirth care. Nondirective counseling is defined as providing patients with a list of health care and social service providers that provide pregnancy, prenatal, delivery, infant care, foster care, adoption, alternative to abortion and abortion services and nondirective, non-marketing information in regard to such providers. Such list may categorize the providers by the service or services they provide. An organization that receives these funds may not directly refer patients who seek abortion services to any organization that provides abortion services, including its own independent affiliate. Nondirective counseling relating to pregnancy may be provided. None of these funds may be paid or granted to an organization or an affiliate of an organization that provides abortion services. An organization that receives these funds may not display or distribute marketing materials about abortion services to patients. An otherwise qualified organization shall not be disqualified from receipt of these funds because of its affiliation with an organization that provides abortion services, provided that the affiliated organization that provides abortion services is independent as determined by the conditions set forth in this section. To ensure that the state does not lend its imprimatur to abortion services, and to ensure that an organization that provides abortion services does not receive a direct or indirect economic or marketing benefit from these funds, an organization that receives these funds and its independent affiliate that provides abortion services may not share any of the following:

- (a) The same or similar name;
 - (b) Medical or non-medical facilities, including but not limited to business offices, treatment, consultation, examination, and waiting rooms;
 - (c) Expenses;
 - (d) Employee wages or salaries; or
 - (e) Equipment or supplies, including but not limited to computers, telephone systems, telecommunications equipment and office supplies.
- An independent affiliate that provides abortion services must be separately incorporated from any organization that receives these funds. An organization that receives these funds must maintain financial records that demonstrate strict compliance with this section and that demonstrate that its independent affiliate that provides abortion services receives no direct or indirect economic or marketing benefit from these funds. An independent audit shall be conducted at least once every three years to ensure compliance with this section. If the organization is an affiliate of an organization which provides abortion services, the independent audit shall be conducted at least annually. The audit shall be conducted by either an independent auditing firm retained by the department of health or by an independent auditing firm approved by the department and retained by an organization
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receiving these funds. Any organization receiving federal funds pursuant to Title X of the federal Public Health Services Act may perform services which are required under the federal act, but otherwise prohibited pursuant to this section if:

- 1) Specifically directed by United States Secretary of Health and Human Services to perform such services by written order directed to the organization; and
- 2) Such order is final and no longer subject to appeal, and
- 3) The refusal to perform such required services will result in the withholding of federal funds to said organization.

Federal statutory or regulatory provisions or guidelines of general application shall not constitute such written order as described herein.

2. If any provision of subsection 1 of this section is held invalid, the provision shall be severed from subsection 1 of this section and the remainder of subsection 1 of this section shall be enforced. If the entirety of subsection 1 of this section is held invalid, then this appropriation shall be in accordance with subsection 3 of this section; otherwise subsections 3 and 5 of this section shall have no effect.
3. For the purpose of funding family planning services, pregnancy testing, and follow-up services that are provided directly by the department of health or provided directly by government agencies of this state or provided directly by any political subdivision of this state or provided directly by community mental health centers organized pursuant to sections 205.975 to 205.990, RSMo, or provided directly by community action agencies organized pursuant to sections 660.370 to 660.374, RSMo, through contractual agreement with the department, provided that none of the funds appropriated herein may be expended to directly or indirectly subsidize abortion services or administrative expenses. Abortion services include performing, assisting with, or directly referring for abortions, or encouraging or counseling patients to have abortions. Family planning services are preconception services that limit or enhance fertility, including contraception methods, the management of infertility, preconception counseling, education, and general reproductive health care. Follow-up services are services that supplement initial consultations for family planning services and pregnancy testing but do not include pregnancy or childbirth care. Nondirective counseling is defined as providing patients with a list of health care and social service providers that provide pregnancy, prenatal, delivery, infant care, foster care, adoption, alternative to abortion and abortion services and nondirective, non-marketing information in regard to such providers. Such list may categorize the providers by the service or services they provide. An entity that receives funds pursuant to this subsection may not directly refer patients who seek abortion services to any organization that provides abortion services. Nondirective counseling relating to pregnancy may be provided. None of the funds provided pursuant to this subsection may be paid or granted to an entity that provides abortion services. Any entity receiving funds pursuant to this subsection may not display or distribute marketing materials about abortion services to patients. An independent audit shall be conducted at least once every three years to ensure compliance with this section. The audit shall be conducted by either an independent auditing firm

retained by the department of health or by an independent auditing firm approved by the department and retained by the entity receiving these funds. Any entity receiving federal funds pursuant to Title X of the federal Public Health Services Act may perform services which are required under the federal act, but otherwise prohibited pursuant to this section if:

- 1) Specifically directed by the United States Secretary of Health and Human Services to perform such services by written order directed to the entity; and
- 2) Such order is final and no longer subject to appeal, and
- 3) The refusal to perform such required services will result in the withholding of federal funds to said entity.

Federal statutory or regulatory provisions or guidelines of general application shall not constitute such written order as described herein.

4. If the entirety of subsection 1 of this section is held invalid and any provision of subsection 3 of this section is held invalid, then this appropriation shall be in accordance with subsection 5; otherwise subsection 5 shall have no effect.
 5. For the purpose of funding family planning services, pregnancy testing, and follow-up services that are provided directly by the department of health or provided by government agencies of this state or provided directly by any political subdivision of this state through contractual agreement with the department, provided that none of these funds appropriated herein may be expended to directly or indirectly subsidize abortion services or administrative expenses. Abortion services include performing, assisting with, or directly referring for abortions, or encouraging or counseling patients to have abortions. Family planning services are preconception services that limit or enhance fertility, including contraception methods, the management of infertility, preconception counseling, education, and general reproductive health care. Follow-up services are services that supplement initial consultations for family planning services and pregnancy testing but do not include pregnancy or childbirth care. Nondirective counseling is defined as providing patients with a list of health care and social service providers that provide pregnancy, prenatal, delivery, infant care, foster care, adoption, alternative to abortion and abortion services and nondirective, non-marketing information in regard to such providers. Such list may categorize the providers by the service or services they provide. The department and any other government entity receiving funds pursuant to this subsection may not directly refer patients who seek abortion services to any organization that provides abortion services. Nondirective counseling relating to pregnancy may be provided. None of the funds provided pursuant to this subsection may be paid or granted to a government entity that provides abortion services. The department and any other government entity receiving funds pursuant to this subsection may not display or distribute marketing materials about abortion services to patients. An independent audit shall be conducted at least once every three years to ensure compliance with this section. The audit shall be conducted
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by either an independent auditing firm retained by the department of health or by an independent auditing firm approved by the department and retained by the government entity receiving these funds. Any government entity receiving federal funds pursuant to Title X of the federal Public Health Services Act may perform services which are required under the federal act, but otherwise prohibited pursuant to this section if:

- 1) Specifically directed by the United States Secretary of Health and Human Services to perform such services by written order directed to the government entity; and
- 2) Such order is final and no longer subject to appeal, and
- 3) The refusal to perform such required services will result in the withholding of federal funds to said government entity.

Federal statutory or regulatory provisions or guidelines of general application shall not constitute such written order as described herein.

From General Revenue Fund.....	\$5,118,639
From Federal Funds.	<u>1,464,819</u>
Total (0 F.T.E.).	\$6,583,458

SECTION 10.715. — To the Department of Health

For the Division of Maternal, Child and Family Health

1. For the purpose of funding alternatives to abortion services, consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing; utilities; educational services; food, clothing and supplies relating to pregnancy, newborn care and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provision and delivery of such services shall be dependent on client needs and not otherwise prioritized by the department. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any service of the type described in Section 10.710. An independent audit shall be conducted annually to ensure compliance with this section. None of these funds shall be expended to perform or induce, assist in the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions.

From General Revenue Fund (0 F.T.E.).	\$1,000,000
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SECTION 10.720. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding school-aged children's health services and related expenses

From Health Initiatives Fund (0 F.T.E.) \$5,366,564

SECTION 10.725. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding children with special health care needs and
related expenses

From General Revenue Fund \$1,548,499
From Federal Funds 4,306,191
From Crippled Children's Service Fund 275,000
From Smith Memorial Endowment Fund 35,000
From Department of Health Interagency Payments Fund 3,720,527
Total (0 F.T.E.) \$9,885,217

SECTION 10.730. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding head injury community rehabilitation and
support services

From General Revenue Fund \$1,724,298
From Federal Funds. 250,000
Total (0 F.T.E.) \$1,974,298

SECTION 10.735. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding genetic services

From General Revenue Fund \$1,955,110
From Federal Funds. 260,000
Total (0 F.T.E.) \$2,215,110

SECTION 10.737. — To the Department of Health

For the Division of Maternal, Child and Family Health

For the purpose of funding blindness education, screening, and treatment
services

From Blindness Education, Screening, and Treatment Fund (0 F.T.E.) \$126,667

SECTION 10.740. — To the Department of Health

For the Division of Nutritional Health and Services

For the purpose of funding program operations and support

Personal Service \$286,672
Expense and Equipment. 301,951
From General Revenue Fund 588,623

Personal Service 2,735,828
Expense and Equipment. 3,002,487
From Federal Funds. 5,738,315
Total (Not to exceed 87.00 F.T.E.) \$6,326,938

SECTION 10.745. — To the Department of Health

For the Division of Nutritional Health and Services

For the purpose of funding Women, Infants and Children (WIC)

Supplemental Nutrition program distributions and related expenses

From General Revenue Fund \$55,800
From Federal Funds. 92,000,000

Total (0 F.T.E.). \$92,055,800

SECTION 10.750. — To the Department of Health

For the Division of Nutritional Health and Services

For the purpose of funding the Child and Adult Care Food Program

From Federal Funds (0 F.T.E.). \$52,044,130E

SECTION 10.755. — To the Department of Health

For the Division of Nutritional Health and Services

For the purpose of funding the Summer Food Service Program, provided
that funds are distributed to each county based upon the number of
eligible children residing in that county. Moneys that are not used by
one county may be redistributed to another

From Federal Funds (0 F.T.E.). \$8,747,200

SECTION 10.760. — To the Department of Health

For the Division of Health Standards and Licensure

For the purpose of funding program operations and support

Personal Service \$2,843,343

Expense and Equipment. 459,012

From General Revenue Fund 3,302,355

Personal Service 1,752,392

Expense and Equipment. 429,993

From Federal Funds 2,182,385

Personal Service 62,258

Expense and Equipment. 13,650

From Health Access Incentive Fund 75,908

Personal Service 51,907

Expense and Equipment. 18,200

From Mammography Fund 70,107

Personal Service 179,046

Expense and Equipment. 81,840

From Early Childhood Development, Education and Care Fund 260,886

For the purpose of funding a diet pill education program

From Department of Health Donated Fund 130,000

For the purpose of health and safety inspections and related services (to
allow the Department the ability to contract for these services at the
local level when possible)

Personal Service. 2,458,885

Expense and Equipment. 411,985

Personal Service and/or Expense and Equipment. 500,000

From General Revenue Fund 3,370,870

Personal Service. 963,161

Expense and Equipment 1,092,797

Personal Service and/or Expense and Equipment. 500,000

From Federal Funds	2,555,958
Personal Service	57,904
Expense and Equipment	49,469
From Missouri Public Health Services Fund	107,373
Total (Not to exceed 262.01 F.T.E.).	\$12,055,842

SECTION 10.765. — To the Department of Health

For the Division of Health Standards and Licensing

For the purpose of funding activities to improve the quality of child care,
 increase the availability of early childhood development programs,
 before- and after-school care, and in-home services for families with
 newborn children, and for general administration of the program in
 accordance with Section 313.835, RSMo

From Federal Funds.	\$4,964,775
From Early Childhood Development, Education and Care Fund	728,740
Total (0 F.T.E.).	\$5,693,515

SECTION 10.770. — To the Department of Health

For the Division of Chronic Disease Prevention and Health Promotion

For the purpose of funding program operations and support

Personal Service	\$758,675
Expense and Equipment.	1,236,001
From General Revenue Fund	1,994,676

Personal Service	2,551,462
Expense and Equipment.	7,335,588
From Federal Funds	9,887,050

Personal Service	70,670
Expense and Equipment.	300,999
From Organ Donation Fund.	371,669
Total (Not to exceed 97.34 F.T.E.).	\$12,253,395

SECTION 10.775. — To the Department of Health

For the Division of Chronic Disease Prevention and Health Promotion

For the purpose of funding the Missouri Arthritis Program

From General Revenue Fund (0 F.T.E.).	\$156,849
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Bill Totals

General Revenue Fund.	\$623,247,390
Federal Funds.	362,296,349
Other Funds.	42,911,430
Total.	\$1,028,455,169

Approved June 22, 2001

HB 11 [CCS SCS HCS HB 11]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended
 to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF SOCIAL SERVICES.

AN ACT to appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002 as follows:

***SECTION 11.005. — To the Department of Social Services**

For Departmental Administration

For the purpose of funding the Office of the Director

Personal Service	\$754,054
Annual salary adjustment in accordance with Section 105.005, RSMo	206
Expense and Equipment	111,004
For expenses of the specific duties of the Prince Hall Advisory Board.	<u>5,000</u>
From General Revenue Fund	870,264

Personal Service	12,038
Annual salary adjustment in accordance with Section 105.005, RSMo.	4
Expense and Equipment.	<u>1,500</u>
From Federal Funds	13,542

Personal Service	41,300
Expense and Equipment.	<u>17,300</u>
From Child Support Collections Fund	58,600

Expense and Equipment	
From Intergovernmental Transfer Fund.	<u>19,000</u>
Total (Not to exceed 15.80 F.T.E.).	\$961,406

*I hereby veto \$5,000 general revenue for expenses related to Prince Hall. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For expenses of the specific duties of the Prince Hall Advisory Board by \$5,000 from \$5,000 to \$0.

From \$870,264 to \$865,264 in total from General Revenue Fund.

From \$961,406 to \$956,406 in total for the section.

BOB HOLDEN, Governor

***SECTION 11.010. — To the Department of Social Services**

For Departmental Administration

For the Office of the Director

For the purpose of funding contractual services with Legal Services

Corporations in Missouri which provide legal services to low-income

Missouri citizens. Funds shall be allocated according to the most recent national census data for the population of poor persons living in Missouri and in the same manner as current allocation from the Legal Services Corporation. Funding shall not be allocated if the provisions of Section 504(a)(7) and Section 508(b)(2)(B) of the Omnibus 1996 Appropriations Bill have not been met by the Legal Services Corporation. Contracts for services should provide low-income Missouri citizens equal access to the civil justice system, with high priority on families and children, domestic violence, the elderly, and qualification for benefits under the Social Security Act and Work Opportunity Reconciliation Act of 1996. Contractors shall provide to the department a report of services rendered, including the number of low-income citizens served, the types of services provided, the cost per case, and the amount of free and reduced fee legal services which have been provided; and shall include a full accounting of all expenditures made by or on behalf of Legal Services Corporations in Missouri which shall include expenditures of all federal, state, and other funds. An accounting shall be made for the first six months from July 1, 2001 through December 31, 2001 and a final accounting for the year through June 30, 2002, and these reports shall include a comparison with all expenditures for Fiscal Year 2001. The accountings shall be delivered to the General Assembly, including the House Budget Committee Chair, the House Appropriations Committee Social Services Chair and the Senate Appropriations Committee Chair, and also to all current House Appropriations Committee Social Services members, no later than January 31, 2002, and July 31, 2002 respectively

From General Revenue Fund.	\$50,000
From Tort Victims' Compensation Fund	750,000
From Intergovernmental Transfer Fund	<u>750,000</u>
Total (0 F.T.E.).	\$1,550,000

*I hereby veto \$750,000 other funds for Legal Aid Grants. The Governor will recommend a supplemental in Fiscal Year 2002 for this same amount for Legal Aid Grants from the Tort Victims' Compensation Fund. There are sufficient funds in the Tort Victims' Compensation Fund to cover these grants. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$750,000 from \$750,000 to \$0 from Intergovernmental Transfer Fund.
From \$1,550,000 to \$800,000 in total for the section.

BOB HOLDEN, Governor

SECTION 11.015. — To the Department of Social Services

For the Office of the Director

For the purpose of receiving and expending donations and federal funds
provided that the General Assembly shall be notified of the source of
any new funds and the purpose for which they shall be expended, in
writing, prior to the use of said funds

From Federal and Other Funds (0 F.T.E.).	\$12,430,000
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SECTION 11.020. — To the Department of Social Services

For Administrative Services
For the Division of General Services
For the purpose of funding operating maintenance and repair
From Facilities Maintenance Reserve Fund \$30,708
From Federal Funds 10,138

For the Division of Youth Services
For the purpose of funding operating maintenance and repair
From Facilities Maintenance Reserve Fund 78,794
From Federal Funds 138,243
Total (0 F.T.E.). \$257,883

SECTION 11.025. — To the Department of Social Services

For the Office of the Director
For the purpose of funding the Personnel and Labor Relations Section
 Personal Service \$309,411
 Expense and Equipment 29,491
From General Revenue Fund 338,902

 Personal Service 26,179
 Expense and Equipment 2,645
From Federal Funds 28,824

 Expense and Equipment
From Intergovernmental Transfer Fund. 1,058
Total (Not to exceed 10.07 F.T.E.). \$368,784

SECTION 11.030. — To the Department of Social Services

For Administrative Services
For the purpose of funding the Division of Budget and Finance
 Personal Service \$2,117,340
 Expense and Equipment 178,895
From General Revenue Fund 2,296,235

 Personal Service 427,380
 Expense and Equipment 123,525
From Federal Funds 550,905

 Expense and Equipment
From Intergovernmental Transfer Fund. 5,412
Total (Not to exceed 80.05 F.T.E.). \$2,852,552

SECTION 11.035. — To the Department of Social Services

For Administrative Services
For the Division of Budget and Finance
For the purpose of funding the receipt and disbursement of refunds and
 incorrectly deposited receipts to allow the over-collection of accounts
 receivables to be paid back to the recipient
From Federal and Other Funds (0 F.T.E.). \$575,000E

SECTION 11.040. — To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance
 For the purpose of funding payments to counties toward the care and
 maintenance of each delinquent or dependent child as provided in
 Chapter 211.156, RSMo
 From General Revenue Fund (0 F.T.E.). \$4,360,000E

***SECTION 11.045.** — To the Department of Social Services

For Administrative Services
 For the purpose of funding the Division of Data Processing
 Personal Service \$4,063,866
 Expense and Equipment. 4,622,423
 From General Revenue Fund 8,686,289

Personal Service 4,768,496
 Expense and Equipment 20,832,452
 From Federal Funds 25,600,948

Personal Service 36,353
 Expense and Equipment. 403,289
 From Administrative Trust Fund 439,642

Personal Service. 239,938
 Expense and Equipment 1,393,020
 From Child Support Collections Fund 1,632,958

Expense and Equipment
 From Educational Improvement Fund 127,238

Personal Service 7,294
 Expense and Equipment. 43,271
 From Third Party Liability Collections Fund 50,565

Expense and Equipment
 From Nursing Facility Quality of Care Fund 959

Expense and Equipment
 From Intergovernmental Transfer Fund. 1,600,438
 Total (Not to exceed 206.50 F.T.E.). \$38,139,037

*I hereby veto \$28,000 general revenue for a job information telephone line for blind persons. These services are available through the Department of Economic Development, Division of Workforce Development. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by \$28,000 from \$4,622,423 to \$4,594,423 from General Revenue Fund.
 From \$8,686,289 to \$8,658,289 in total from General Revenue Fund.
 From \$38,139,037 to \$38,111,037 in total for the section.

BOB HOLDEN, Governor

SECTION 11.050. — To the Department of Social Services

For Administrative Services	
For the purpose of funding the Division of General Services	
Personal Service	\$2,059,028
Expense and Equipment.	<u>788,599</u>
From General Revenue Fund	2,847,627
 Personal Service	325,716
Expense and Equipment.	<u>85,724</u>
From Federal Funds	411,440
 Expense and Equipment	
From Administrative Trust Fund	250,000
 Personal Service	
From Child Support Enforcement Fund	93,689
 Expense and Equipment	
From Intergovernmental Transfer Fund	43,500
For the purpose of funding the centralized inventory system	
Expense and Equipment	
From Administrative Trust Fund	<u>9,700,000E</u>
Total (Not to exceed 94.69 F.T.E.).	\$13,346,256

SECTION 11.055. — To the Department of Social Services

For Administrative Services	
For the purpose of funding the Division of Legal Services	
Personal Service	\$2,835,729
Expense and Equipment.	<u>411,763</u>
From General Revenue Fund	3,247,492
 Personal Service	2,996,110
Expense and Equipment.	<u>582,977</u>
From Federal Funds	3,579,087
 Personal Service	134,325
Expense and Equipment.	<u>31,706</u>
From Third Party Liability Collections Fund	166,031
 Personal Service	51,466
Expense and Equipment.	<u>14,294</u>
From Nursing Facility Quality of Care Fund	65,760
 Personal Service	
From Child Support Enforcement Fund	146,074
 Expense and Equipment	
From Intergovernmental Transfer Fund.	<u>66,641</u>
Total (Not to exceed 183.20 F.T.E.).	\$7,271,085

SECTION 11.060. — To the Department of Social Services

For the purpose of funding the Division of Child Support Enforcement, throughout this bill, funds designated as Child Support Enforcement Collections Funds shall include, in addition to collections, any and all fees collected pursuant to the operation of this division

Personal Service	\$580,962
Expense and Equipment.	<u>2,582,337</u>
From General Revenue Fund	3,163,299

Personal Service	25,780,723
Expense and Equipment	<u>14,181,542</u>
From Federal Funds	39,962,265

Personal Service	7,664,658
Expense and Equipment.	<u>3,705,158</u>
From Child Support Enforcement Collections Fund	11,369,816

Expense and Equipment	
From Administrative Trust Fund	<u>39,690</u>
Total (Not to exceed 1,231.78 F.T.E.).	\$54,535,070

SECTION 11.065. — To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding contractor and associated costs related to the development of the Missouri Automated Child Support System (MACSS)

From Child Support Enforcement Collections Fund	\$2,040,000
From Federal Funds.	<u>3,960,000</u>
Total (0 F.T.E.).	\$6,000,000

SECTION 11.070. — To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding Parents Fair Share Program

Personal Service	\$848,133
Expense and Equipment.	<u>3,599,973</u>
From Federal Funds	4,448,106

Personal Service	430,359
Expense and Equipment.	<u>731,679</u>
From Child Support Enforcement Collections Fund	<u>1,162,038</u>
Total (Not to exceed 47.63 F.T.E.).	\$5,610,144

SECTION 11.075. — To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding contractual agreements with local governments in certain paternity establishment and child support enforcement cases

From Child Support Enforcement Collections Fund	\$653,000
From Federal Funds.	<u>1,270,000</u>
Total (0 F.T.E.).	\$1,923,000

SECTION 11.080. — To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding payments to private agencies collecting child support orders and arrearages
 From Child Support Enforcement Collections Fund \$510,000
 From Federal Funds. 990,000
 Total (0 F.T.E.). \$1,500,000

SECTION 11.085. — To the Department of Social Services
 For the Division of Child Support Enforcement
 For the purpose of funding reimbursement to counties and the City of St. Louis providing child support enforcement services
 From Federal Funds (0 F.T.E.) \$7,500,000

SECTION 11.090. — To the Department of Social Services
 For the Division of Child Support Enforcement
 For the purpose of funding payment to the federal government for reimbursement of federal Temporary Assistance for Needy Families payments, incentive payments to local governments and other states, refunds of bonds, refunds of support payments or overpayments, and distributions to families
 From Federal Funds. \$23,300,000E
 From Alternative Care Trust Fund 167,000
 From Debt Offset Escrow Fund. 4,000,000E
 Total (0 F.T.E.). \$27,467,000

SECTION 11.100. — To the Department of Social Services
 For the Division of Family Services
 For the purpose of funding Administrative Services and for electronic benefit transfers (EBT) systems to reduce fraud, waste, and abuse
 Personal Service \$2,957,811
 Expense and Equipment. 3,719,048
 From General Revenue Fund 6,676,859

 Personal Service 6,715,491
 Expense and Equipment. 6,469,295
 From Federal Funds 13,184,786

 Personal Service 348,978
 Expense and Equipment. 624,868
 From Third-Party Liability Collections Fund 973,846

 Expense and Equipment
 From Blind Pension Fund 62,417

 Expense and Equipment
 From Intergovernmental Transfer Fund. 47,098
 Total (Not to exceed 278.82 F.T.E.). \$20,945,006

SECTION 11.105. — To the Department of Social Services
 For the Division of Family Services
 For the purpose of funding one-time costs for training and technology upgrades for Child Welfare services
 From Intergovernmental Transfer Fund. \$4,000,000

From Federal Funds.	1,354,752
Total (0 F.T.E.).	<u>\$5,354,752</u>

SECTION 11.110. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding training of staff including those who provide
social services and training of staff for FUTURES, Temporary
Assistance, and Work First
Expense and Equipment

From General Revenue Fund	\$1,820,000
From Federal Funds.	<u>548,632</u>
Total (0 F.T.E.).	<u>\$2,368,632</u>

SECTION 11.115. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding the receipt of funds from the Polk County and
Bolivar Charitable Trust for the exclusive benefit and use of the Polk
County Office of the Division of Family Services

From Charitable Trust Account (0 F.T.E.).	\$10,000
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SECTION 11.120. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding contractor, hardware, and other costs
associated with planning, development, and implementation of a
Family Assistance Management Information System (FAMIS)

From General Revenue Fund	\$2,951,822
From Federal Funds.	3,789,073
From Intergovernmental Transfer Fund.	<u>14,316</u>
Total (0 F.T.E.).	<u>\$6,755,211</u>

SECTION 11.125. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding Field Services Operations

Personal Service	\$14,034,328
Expense and Equipment.	<u>6,903,013</u>
From General Revenue Fund	<u>20,937,341</u>

Personal Service	30,727,564
Expense and Equipment.	<u>8,197,639</u>
From Federal Funds	<u>38,925,203</u>

Personal Service	268,813
Expense and Equipment.	<u>57,991</u>
From Health Initiatives Fund	<u>326,804</u>

Expense and Equipment	
From Intergovernmental Transfer Fund.	<u>105,131</u>
Total (Not to exceed 1,583.67 F.T.E.).	<u>\$60,294,479</u>

SECTION 11.130. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding salaries of line staff; provided that the division may use up to \$350,000 for the purpose of contracting with community-based not-for-profit agencies which are certified by a recognized national body and which demonstrate a record of providing successful job placement, training and retention services to implement a retention program to address turnover in offices in the Metropolitan St. Louis Region
Personal Service

From General Revenue Fund	\$37,651,002
From Federal Funds	76,127,386
From Health Initiatives Fund.	475,040
Total (Not to exceed 3,903.82 F.T.E.).	\$114,253,428

***SECTION 11.135.** — To the Department of Social Services

For the purpose of funding Direct Client Support, and for other welfare client related activities

From General Revenue Fund.	\$2,760,000
From Federal Funds	11,368,085

For the purpose of funding Community Initiatives, and for other welfare related activities

From Intergovernmental Transfer Fund	4,145,979
From Federal Funds	4,633,799E

For the purpose of funding TANF and at-risk of becoming TANF clients, including their families in the Bootheel area, and for other welfare related activities. These services shall include, but not be limited to after-school care, summer care, job training, and family empowerment services.

From General Revenue Fund.	2,000,000
From Federal Funds	800,000

For the purpose of funding services provided at the Grace Hill Neighborhood Services to include, but not be limited to, after school care, job training, and family empowerment services

From General Revenue Fund.	400,000
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For the purpose of funding services at the Lindbergh Family Resource Center, St. Joseph, Missouri, to include, but not be limited to, after school care, youth and family empowerment services

From General Revenue Fund.	400,000
Total (0 F.T.E.).	\$26,507,863

*I hereby veto \$1,300,000 general revenue for grants to specific communities. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding TANF and at-risk of becoming TANF clients, including their families in the Bootheel area, and for other welfare related activities. These services shall include, but not be limited to after-school care, summer care, job training, and family empowerment services.

By \$1,000,000 from \$2,000,000 to \$1,000,000 from General Revenue Fund.

For the purpose of funding services provided at the Grace Hill Neighborhood Services to include, but not be limited to, after school care, job training, and family empowerment services.

By \$200,000 from \$400,000 to \$200,000 from General Revenue Fund.

For the purposes of funding services at the Lindbergh Family Resource Center, St. Joseph, Missouri, to include, but not be limited to, after school care, youth and family empowerment services.

By \$100,000 from \$400,000 to \$300,000 from General Revenue Fund.

From \$26,507,863 to \$25,207,863 in total for the section.

BOB HOLDEN, Governor

SECTION 11.140. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding Food Stamp work training-related expenses

From General Revenue Fund \$81,939

From Federal Funds. 7,100,000

Expense and Equipment

From Intergovernmental Transfer Fund. 61

Total (0 F.T.E.). \$7,182,000

SECTION 11.145. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding Child Care Services for recipients of the programs funded by the Temporary Assistance for Needy Families Block Grant, those who would be at risk of being eligible for Temporary Assistance for Needy Families, and low-income families, the general administration of the programs, early childhood care and education programs pursuant to Chapter 313, RSMo, and to support the Educare program not to exceed \$3,000,000 expenses

From General Revenue Fund \$59,410,208

From Federal Funds 104,223,960

From Early Childhood Development, Education and Care Fund 1,609,591

Expense and Equipment

From Intergovernmental Transfer Fund 2,154

For the purpose of payments to accredited child care providers

pursuant to Chapter 313, RSMo 3,153,500

For the purpose of funding early childhood start-up and expansion

grants pursuant to Chapter 313, RSMo 3,784,200

For the purpose of funding early childhood development, education, and care programs for low-income families pursuant to Chapter

313, RSMo 3,153,500

For the purpose of funding certificates to low-income, at-home families

for Chapter 313, RSMo. 3,153,500

From Early Childhood Development, Education and Care Fund 13,244,700

Total (Not to exceed 1.00 F.T.E.). \$178,490,613

SECTION 11.150. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding the payment of Temporary Assistance for
 Needy Families benefits and for payments to employers participating
 in the wage supplementation program
 From General Revenue Fund \$25,000,000
 From Federal Funds 120,000,000E

For the purpose of funding Grandparent Foster Care payments
 From General Revenue Fund 12,684,205

For the purpose of funding Food Stamp wage supplementation
 From Federal Funds. 1,500,000
 Total (0 F.T.E.). \$159,184,205

SECTION 11.155. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding supplemental payments to aged or disabled
 persons
 From General Revenue Fund (0 F.T.E.). \$315,000

SECTION 11.160. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding nursing care payments to aged, blind, or
 disabled persons, provided a portion of this appropriation may be
 transferred to the Department of Mental Health for persons removed
 from the Supplemental Nursing Care Program and placed in the
 Supported Housing Program, resulting in a reduction of Department
 of Mental Health supplemental nursing home clients and for ~~Personal~~
 funds to recipients of Supplemental Nursing Care payments as
 required by Section 208.030, RSMo
 From General Revenue Fund (0 F.T.E.). \$25,538,684

SECTION 11.165. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding General Relief Program payments
 From General Revenue Fund \$5,550,000
 From Federal Funds. 740,000
 Total (0 F.T.E.). \$6,290,000

SECTION 11.170. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding receipt and disbursement of Supplemental
 Security Income Program payments
 From Federal Funds (0 F.T.E.). \$4,000,000

SECTION 11.175. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding Blind Pensions and Supplemental payments to
 blind persons
 From Blind Pension Fund (0 F.T.E.). \$17,167,588

SECTION 11.180. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding benefits and services as provided by the
 Indochina Migration and Refugee Assistance Act of 1975 as amended
 From Federal Funds (0 F.T.E.). \$3,812,553

SECTION 11.185. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding community services programs provided by
 community action agencies, including programs to assist the
 homeless, under the provisions of the Community Services Block
 Grant provided that no funds may be expended by the Human
 Development Corporation (HDC) of the City of St. Louis until a full
 disclosure financial statement has been presented to the director of the
 Department of Social Services
 From Federal Funds (0 F.T.E.). \$15,603,980

SECTION 11.190. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding grants for local initiatives to assist the
 homeless
 From Federal Funds (0 F.T.E.). \$500,000

SECTION 11.195. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding the Emergency Shelter Grant Program
 From Federal Funds (0 F.T.E.). \$1,340,000

SECTION 11.200. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding the Surplus Food Distribution Programs, and
 the receipt and disbursement of Donated Commodities Program
 payments
 From Federal Funds (0 F.T.E.). \$1,000,000

SECTION 11.205. — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding payments to the Department of Natural
 Resources for weatherization services
 From General Revenue Fund \$1,000,000

For the purpose of funding the Low-Income Home Energy Assistance
 Program
 From Federal Funds 31,794,695E
 Total (0 F.T.E.). \$32,794,695

***SECTION 11.210.** — To the Department of Social Services

For the Division of Family Services
 For the purpose of funding administration of blind services
 Personal Service \$526,207
 Expense and Equipment. 171,928
 From General Revenue Fund 698,135

Personal Service	3,045,694
Expense and Equipment.....	<u>842,431</u>
From Federal Funds	3,888,125

Personal Service	573,580
Expense and Equipment.....	<u>93,027</u>
From Blind Pension Fund	666,607

Personal Service.....	275,000
Expense and Equipment.....	<u>47,610</u>
From Intergovernmental Transfer Fund.....	322,610
Total (Not to exceed 138.15 F.T.E.).....	<u>\$5,575,477</u>

*I hereby veto \$300,000 other funds for rehabilitation teachers for the blind. The funding source is one-time and it should not be spent for ongoing purposes. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Service by \$275,000 from \$275,000 to \$0 from Intergovernmental Transfer Fund.
Expense and Equipment by \$25,000 from \$47,610 to \$22,610 from Intergovernmental Transfer Fund.
From \$322,610 to \$22,610 in total from Intergovernmental Transfer Fund.
From \$5,575,477 to \$5,275,477 in total for the section.

BOB HOLDEN, Governor

SECTION 11.215. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding services for the visually impaired

From General Revenue Fund	\$1,239,935
From Federal Funds	5,085,000
From Blind Pension Fund	310,000
From Donated Funds	100,000
From Intergovernmental Transfer Fund.....	<u>65</u>
Total (0 F.T.E.)	\$6,735,000

***SECTION 11.220.** — To the Department of Social Services

For the Division of Family Services

For the purpose of funding services for children and families to include the programs and activities delineated in this section

For the purpose of funding children's treatment services, including, but not limited to, home-based services, day treatment services, preventive services, child care, family reunification services, intensive in-home services, child assessment centers and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund	\$8,329,815
From Federal Funds	5,486,047
From Intergovernmental Transfer Fund	185

For the purpose of funding Foster Care payments, including grandparent foster care and guardian foster care, related services and for expenses related to the training of foster parents, and for intensive in-home

services, and for services provided through comprehensive, expedited permanency systems of care for children and families	
From General Revenue Fund	31,894,792
From Federal Funds	11,645,182
For the purpose of funding Adoption Subsidy payments and related services	
From General Revenue Fund	34,211,515
From Federal Funds	13,578,271
For the purpose of funding independent living placements and therapeutic treatment services, including services provided through comprehensive, expedited permanency systems of care for children and families	
From General Revenue Fund	1,777,894
From Federal Funds	3,393,228
From Intergovernmental Transfer Fund	2,106
For the purpose of funding any programs enumerated in this section, including services provided through comprehensive, expedited permanency systems of care for children and families	
From General Revenue Fund	12,476,578
From Federal Funds	6,675,436
From Intergovernmental Transfer Fund.	165
Total (0 F.T.E.)	\$129,471,214

*I hereby veto \$3,688,800 general revenue for the STARS Foster Care Program to "grandfather" those currently not receiving a STARS payment into the program without requiring them to take the mandatory training. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding Foster Care payments, including grandparent foster care and guardian foster care, related services and for expenses related to the training of foster parents, and for intensive in-home services, and for services provided through comprehensive, expedited permanency systems of care for children and families.

By \$3,688,800 from \$31,894,792 to \$28,205,992 from General Revenue Fund.
From \$129,471,214 to \$125,782,414 in total for the section.

BOB HOLDEN, Governor

***SECTION 11.225.** — To the Department of Social Services
For the Division of Family Services
For the purpose of funding Regional Child Assessment Centers
From General Revenue Fund (0 F.T.E.). \$2,500,000

*I hereby veto \$250,000 general revenue for three regional child assessment centers. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding Regional Child Assessment Centers.
By \$250,000 from \$2,500,000 to \$2,250,000 from General Revenue Fund.

From \$2,500,000 to \$2,250,000 in total for the section.

BOB HOLDEN, Governor

SECTION 11.230. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding residential placements and therapeutic treatment services, including services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund	\$29,017,862
From Federal Funds	<u>40,709,284</u>
Total (0 F.T.E.).	\$69,727,146

SECTION 11.235. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding diversion of children from inpatient psychiatric treatment and to provide services to reduce the number of children's inpatient medical hospitalization days

From General Revenue Fund	\$6,561,278
From Federal Funds.	<u>9,691,373</u>
Total (0 F.T.E.).	\$16,252,651

SECTION 11.240. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding Caring Communities

Personal Service.	\$399,637
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For the purpose of funding Caring Communities Program payments	<u>765,901</u>
From General Revenue Fund	1,165,538

For the purpose of funding Caring Communities Program payments

From Federal Funds.	<u>6,677,905</u>
Total (0 F.T.E.).	\$7,843,443

SECTION 11.245. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding residential placement payments to counties for children in the custody of juvenile courts

From Federal Funds (0 F.T.E.).	\$700,000
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***SECTION 11.250.** — To the Department of Social Services

For the Division of Family Services

For the purpose of funding services/programs to assist victims of domestic violence

From General Revenue Fund	\$3,800,000
From Federal Funds.	1,347,534

For the purpose of funding twenty domestic violence intervention/ rehabilitation pilot projects pursuant to Section 455.305 RSMo

From General Revenue Fund.	<u>1,000,000</u>
Total (0 F.T.E.).	\$6,147,534

*I hereby veto \$1,000,000 general revenue for domestic violence prevention programs that cannot be spent due to a statutory problem. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding twenty domestic violence intervention/rehabilitation pilot projects pursuant to Section 455.305 RSMo.

By \$1,000,000 from \$1,000,000 to \$0 from General Revenue Fund.

From \$6,147,534 to \$5,147,534 in total for the section.

BOB HOLDEN, Governor

SECTION 11.255. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding the Child Abuse and Neglect Prevention Grant
and Children Justice Act Grant

From Federal Funds (0 F.T.E.). \$1,000,000

SECTION 11.260. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding transactions involving Personal funds of
children in the custody of the Division of Family Services or the
Division of Youth Services

From Alternative Care Trust Fund (0 F.T.E.). \$9,000,000E

SECTION 11.300. — To the Department of Social Services

For the Division of Youth Services

For the purpose of funding Central Office and Regional Offices

Personal Service \$2,126,858

Expense and Equipment. 328,533

From General Revenue Fund 2,455,391

Personal Service 534,179

Expense and Equipment. 117,846

From Federal Funds 652,025

Expense and Equipment

From Intergovernmental Transfer Fund. 22,407

Total (Not to exceed 69.62 F.T.E.). \$3,129,823

SECTION 11.305. — To the Department of Social Services

For the Division of Youth Services

For the purpose of funding treatment services including foster care and
contractual payments

Personal Service \$31,081,059

Expense and Equipment. 3,971,207

From General Revenue Fund 35,052,266

Personal Service 6,490,534

Expense and Equipment. 7,073,293

From Federal Funds 13,563,827

Personal Service 2,345,539

Expense and Equipment	<u>1,379,282</u>
From DSS Educational Improvement Fund	<u>3,724,821</u>

Personal Service	105,022
Expense and Equipment	<u>10,135</u>
From Health Initiatives Fund	<u>115,157</u>

Expense and Equipment	
From Intergovernmental Transfer Fund	<u>88,495</u>
Total (Not to exceed 1,410.00 F.T.E.)	<u>\$52,544,566</u>

***SECTION 11.310.** — To the Department of Social Services

For the Division of Youth Services

For the purpose of funding incentive payments to counties for
community-based treatment programs for youth

From General Revenue Fund	\$6,440,000
From Gaming Commission Fund	<u>500,000</u>
Total (0 F.T.E.)	<u>\$6,940,000</u>

*I hereby veto \$644,000 general revenue for the Juvenile Court Diversion Program. This item was originally part of the Department of Social Service's Fiscal Year 2002 core reduction plan. Given the large general revenue increase in juvenile courts in recent years a local match is appropriate. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For the purpose of funding incentive payments to counties for community-based treatment programs for youth.

By \$644,000 from \$6,440,000 to \$5,796,000 from General Revenue Fund.

From \$6,940,000 to \$6,296,000 for the section.

BOB HOLDEN, Governor

***SECTION 11.400.** — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding administrative services, including \$60,000 for
a pager program in the metropolitan Kansas City area. Additionally,
the Division may use up to \$2,600,000 within this section for
payments to providers for participating in cost containment programs
and services.

Personal Service	\$4,202,245
Expense and Equipment	<u>5,322,677</u>
From General Revenue Fund	<u>9,524,922</u>

Personal Service	5,189,659
Expense and Equipment	<u>11,632,805</u>
From Federal Funds	<u>16,822,464</u>

Personal Service	16,581
Expense and Equipment	<u>5,110</u>
From Pharmacy Rebates Fund	<u>21,691</u>

Personal Service	263,435
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Expense and Equipment.	31,385
From Health Initiatives Fund	294,820
Personal Service	70,374
Expense and Equipment.	10,281
From Nursing Facility Quality of Care Fund	80,655
Personal Service	247,216
Expense and Equipment.	1,414,665
From Third-Party Liability Collections Fund	1,661,881
Expense and Equipment	
From Intergovernmental Transfer Fund	1,321,237
For the purpose of funding women and minority health care outreach programs	
From General Revenue Fund.	650,000
From Federal Funds.	650,000
Total (Not to exceed 305.50 F.T.E.).	\$31,027,670

*I hereby veto \$300,000 for health care outreach, including \$150,000 general revenue. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Also, I hereby veto \$120,000 to expand the pager pilot program, including \$60,000 general revenue. Similar utilization management approaches to increase medication compliance of Medicaid recipients will be done through the Pharmacy Enhancement Program (PEP) that was recommended this year. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by \$60,000 from \$5,322,677 to \$5,262,677 from General Revenue Fund.
From \$9,524,922 to \$9,464,922 in total from General Revenue Fund.

Expense and Equipment by \$60,000 from \$11,632,805 to \$11,572,805 from Federal Funds.
From \$16,822,464 to \$16,762,464 in total from Federal Funds.

For the purpose of funding women and minority health care outreach programs.
By \$150,000 from \$650,000 to \$500,000 from General Revenue Fund.
By \$150,000 from \$650,000 to \$500,000 from Federal Funds.

From \$31,027,670 to \$30,607,670 in total for the section.

BOB HOLDEN, Governor

SECTION 11.401. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding a revenue maximization unit in the Division of

Medical Services	
Personal Service.	\$81,000
Expense and Equipment	29,744
From Federal Reimbursement Allowance Funds	110,744

Personal Service.	81,000
Expense and Equipment	<u>29,744</u>
From Federal Funds	<u>110,744</u>
Total (Not to exceed 4.00 F.T.E.).. . . .	\$221,488

SECTION 11.405. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding fees associated with third-party collections

From Federal Funds.	\$250,000E
From Third-Party Liability Collections Fund	<u>250,000E</u>
Total (0 F.T.E.).	\$500,000E

SECTION 11.410. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding the operation of the information system

From General Revenue Fund.. . . .	\$5,979,900
From Federal Funds	<u>27,564,738</u>
From Intergovernmental Transfer Fund.	<u>663,315</u>
Total (0 F.T.E.).	\$34,207,953

SECTION 11.415. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding contractor payments associated with managed care eligibility and enrollment of Medicaid recipients

From General Revenue Fund	\$470,000
From Federal Funds.	<u>3,470,527</u>
Total (0 F.T.E.).	\$3,940,527

***SECTION 11.420.** — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding pharmaceutical payments under the Medicaid fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists

From General Revenue Fund	\$241,485,482
From Federal Funds	<u>455,108,835</u>
From Pharmacy Rebates Fund	<u>46,518,758E</u>
From Health Initiatives Fund	969,293

For pharmacy rate adjustments for managed care plans in the western region. Such adjustments shall occur only until new rates are established by re-bid in 2002

From General Revenue Fund.. . . .	250,000
From Federal Funds.	<u>375,000</u>
Total (0 F.T.E.).	\$744,707,368

*I hereby veto \$625,000 to increase payments to the western region for pharmacy services, including \$250,000 general revenue. All managed care plans participating in the Medicaid program will receive trend factor increases for medical services and for increased pharmacy costs in Fiscal Year 2002. In February 2002, the western region will rebid and a pharmacy inflation factor will be included in the capitation rates. Therefore, these additional funds would be duplicative in nature. A weak national economy is expected to depress revenue collections

below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For pharmacy rate adjustments for managed care plans in the western region. Such adjustments shall occur only until new rates are established by re-bid in 2002

By \$250,000 from \$250,000 to \$0 from General Revenue Fund.

By \$375,000 from \$375,000 to \$0 from Federal Funds.

From \$744,707,368 to \$744,082,368 in total for the section.

BOB HOLDEN, Governor

SECTION 11.421. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding pharmaceutical payments under the Medicaid fee-for-service and managed care programs. Funds appropriated herein shall be used for pharmaceutical requirements of children born prematurely and at risk who are under the age of five

From General Revenue Fund	\$282,388
From Federal Funds.	<u>442,612</u>
Total (0 F.T.E.).	\$725,000

***SECTION 11.425.** — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding physician services and related services, including, but not limited to, clinic and podiatry services, physician-sponsored services and fees, laboratory and x-ray services, and family planning services under the Medicaid fee-for-service and managed care programs

From General Revenue Fund	\$87,019,593
From Federal Funds	147,217,880
From Health Initiatives Fund.	<u>1,247,544</u>
Total (0 F.T.E.).	\$235,485,017

*I hereby veto \$75,000 to provide reimbursement for provisionally licensed psychologists, including \$35,000 general revenue. The Division of Medical Services has estimated the annual costs for these services to be \$1.2 million; however, the General Assembly only provided a fraction of the estimated costs for these services. Due to the fiscal constraints of the state, no additional provider groups should be added to the Medicaid program at this time. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$35,000 from \$87,019,593 to \$86,984,593 from General Revenue Fund.

By \$40,000 from \$147,217,880 to \$147,177,880 from Federal Funds.

From \$235,485,017 to \$235,410,017 in total for the section.

BOB HOLDEN, Governor

***SECTION 11.430.** — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding dental services under the Medicaid fee-for-service and managed care programs

From General Revenue Fund	\$8,012,017
From Federal Funds	<u>12,695,615</u>

From Health Initiatives Fund	71,162
For the purpose of funding dental services to Missouri rural counties through the University of Missouri Dental School	
From Intergovernmental Transfer Funds	<u>200,000</u>
Total (0 F.T.E.).	\$20,978,794

*I hereby veto \$2,241,607 to increase dental rates in the Medicaid program, including \$873,106 general revenue. This will still provide sufficient funding to bring the dental rates up to 57 percent of the usual, customary and reasonable (UCR) rates. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

In addition, I hereby veto \$200,000 other funds for rural dental services. The state should continue to focus its limited resources on increasing the overall reimbursement structure to dentists that provide services to Medicaid recipients rather than funding additional untested pilot programs. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$873,106 from \$8,012,017 to \$7,138,911 from General Revenue Fund.
By \$1,368,501 from \$12,695,615 to \$11,327,114 from Federal Funds.

For the purpose of funding dental services to Missouri rural counties through the University of Missouri Dental School.

By \$200,000 from \$200,000 to \$0 from Intergovernmental Transfer Funds.
From \$20,978,794 to \$18,537,187 in total for the section.

BOB HOLDEN, Governor

SECTION 11.435. — To the Department of Social Services
For the Division of Medical Services

For the purpose of funding payments to third-party insurers, employers, or
policyholders for health insurance

From General Revenue Fund	\$23,876,234
From Federal Funds.	<u>38,011,335</u>
Total (0 F.T.E.).	\$61,887,569

***SECTION 11.440.** — To the Department of Social Services

For the Division of Medical Services

For funding long-term care services

For the purpose of funding home health, respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, and children's waiver services, Program for All-Inclusive Care for the Elderly, and other related services under the Medicaid fee-for-service and managed care programs. Provided that an individual eligible for or receiving nursing home care must be given the opportunity to have those Medicaid dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 13 CSR 15 9.030(5) and further be allowed to choose the Personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed Medicaid State Plan Amendment that is administered by the Division of Vocational Rehabilitation in the Department of Elementary and Secondary Education. And

further provided that individuals eligible for the Medicaid Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet need as determined by 13 CSR 15 9.030(5); and also be allowed to have their Medicaid funds follow them to the extent necessary to meet their unmet needs to whichever option they choose. This language does not create any entitlements not established by statute.

From General Revenue Fund	\$92,561,381
From Federal Funds	159,678,247
From Intergovernmental Transfer Fund	9,154,296
From Health Initiatives Fund	159,305

For the purpose of funding home-delivered meals distributed according to formula to the Area Agencies on Aging

From Federal Funds	4,191,968
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For the purpose of funding care in nursing facilities, Program for All-Inclusive Care for the Elderly, or other long-term care services under the Medicaid fee-for-service and managed care programs

From General Revenue Fund	135,493,028
From Federal Funds	269,376,788
From Uncompensated Care Fund.	<u>35,600,000</u>
Total (0 F.T.E.)	\$706,215,013

*I hereby veto \$6,345,758 for increasing in-home services rates, including \$2,471,673 general revenue. There will still be funds to provide a \$.25 rate increase per hour to in-home service providers. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$2,471,673 from \$92,561,381 to \$90,089,708 from General Revenue Fund.

By \$3,874,085 from \$159,678,247 to \$155,804,162 from Federal Funds.

I hereby veto \$166,383 for increasing nursing home rates to \$80 per bed day, including \$64,806 general revenue. All Medicaid certified nursing facilities reimbursed less than \$85 per bed day will receive an add-on payment in Fiscal Year 2002 through the appropriations provided in Section 11.445. Therefore, these funds are duplicative in nature. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$64,806 from \$135,493,028 to \$135,428,222 from General Revenue Fund.

By \$101,577 from \$269,376,788 to \$269,275,211 from Federal Funds.

From \$706,215,013 to \$699,702,872 in total for the section.

BOB HOLDEN, Governor

***SECTION 11.442.** — To the Department of Social Services

For the Division of Medical Services

For funding long-term care services

For the purpose of funding telephone assurance programs for the elderly and handicapped

From Intergovernmental Transfer Fund.	\$200,000
From Federal Funds	<u>300,000</u>

Total (0 F.T.E.). \$500,000

*I hereby veto \$500,000 federal and other funds for telephone assurance pilot projects. Some Area Agencies on Aging are providing the service; therefore, this funding is duplicative in nature. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$200,000 from \$200,000 to \$0 from Intergovernmental Transfer Fund.

By \$300,000 from \$300,000 to \$0 from Federal Funds.

From \$500,000 to \$0 in total for the section.

BOB HOLDEN, Governor

SECTION 11.445. — To the Department of Social Services
For the Division of Medical Services

For the purpose of funding one-time payments to nursing homes to increase quality and efficiency, to provide one-time funding of \$2,800,000 for high Medicaid volume facilities, and to provide one-time funding of up to \$1,900,000 for facilities reimbursed less than \$85 per bed day. Additionally, up to \$200,000 provided within this section may be used for a comprehensive evaluation of turnover and care within the nursing home industry.

From Federal Fund	\$81,196,500
From Intergovernmental Transfer Funds	<u>51,803,500</u>
Total (0 F.T.E.).	\$133,000,000

SECTION 11.450. — To the Department of Social Services
For the Division of Medical Services

For the purpose of funding all other non-institutional services, including, but not limited to, rehabilitation, optometry, audiology, ambulance, non-emergency medical transportation, training for diabetic patients provided by pharmacists and other health care providers who are certified in diabetes education at a rate of no less than \$40 per hour for the first visit and \$20 per hour for each subsequent visit to be paid directly from the division, broker services, and durable medical equipment under the Medicaid fee-for-service and managed care programs

From General Revenue Fund	\$33,015,863
From Federal Funds	53,952,056
From Health Initiatives Fund.	<u>194,881</u>
Total (0 F.T.E.).	\$87,162,800

***SECTION 11.455.** — To the Department of Social Services
For the Division of Medical Services

For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the Medicaid fee-for-service program or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget

Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by
Section 208.152 (22), RSMo

From General Revenue Fund	\$97,611,348
From Federal Funds	296,747,226
From Health Initiatives Fund	7,593,735
From Federal Reimbursement Allowance Fund	70,763,939
From Intergovernmental Transfer Fund.	15,372,715
Total (0 F.T.E.).	\$488,088,963

*I hereby veto \$1,828,341 to increase dental rates in the Medicaid program, including \$712,139 general revenue. There will be funds appropriated to bring the dental rates up to 57 percent of the usual, customary and reasonable (UCR) rates. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$712,139 from \$97,611,348 to \$96,899,209 from General Revenue Fund.
By \$1,116,202 from \$296,747,226 to \$295,631,024 from Federal Funds.
From \$488,088,963 to \$486,260,622 in total for the section.

BOB HOLDEN, Governor

SECTION 11.460. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding hospital care under the Medicaid fee-for-
service and managed care programs

From General Revenue Fund	\$24,658,958
From Federal Funds	276,611,559
From Uncompensated Care Fund	52,300,000
From Federal Reimbursement Allowance Fund	82,136,061
From Health Initiatives Fund	2,797,179
From Intergovernmental Transfer Fund.	12,994,913
Total (0 F.T.E.).	\$451,498,670

***SECTION 11.462.** — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding a Core Primary Care Network. Services may
include programs and activities to increase access to primary care, oral
health services, chronic and infectious disease prevention, and other
vital health and support services, with an emphasis on dental services

From General Revenue Fund (0 F.T.E.).	\$2,500,000
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*I hereby veto \$2,500,000 general revenue for FQHC's to expand dental services. The FQHC's were appropriated \$5 million in additional funds in the Healthy Families Budget to expand both dental and physician services to the uninsured. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$2,500,000 from \$2,500,000 to \$0 from General Revenue Fund.

BOB HOLDEN, Governor

SECTION 11.465. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding payments to hospitals under the Federal Reimbursement Allowance Program and for the expenses of the Poison Control Center in order to provide services to all hospitals within the state

From Federal Funds.	\$213,000,000E
From Federal Reimbursement Allowance Fund	1E
Total (0 F.T.E.).	\$213,000,001E

SECTION 11.470. — To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to health care for uninsured adults or adults authorized by the 91st General Assembly, for purposes of funding the safety net program by using fee-for-service, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services

From General Revenue Fund	\$15,226,783
From Federal Funds	69,855,488
From Federal Reimbursement Allowance Fund and Intergovernmental Transfers	24,300,000
From Pharmacy Rebates Fund	814,421
From Intergovernmental Transfer Fund	1,709,655

For the purpose of funding health care services provided to uninsured adults through local initiatives for the uninsured

From Federal and Other Funds.	1E
Total (0 F.T.E.).	\$111,906,348

***SECTION 11.472.** — To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to care for uninsured children using fee-for-services, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services; provided that in order to be eligible, and pursuant to the provisions of Section 208.631, RSMo Supp, 1999; parents and guardians of uninsured children with incomes between two hundred twenty-six and three hundred percent of the federal poverty level shall submit with their application two health insurance quotes from insurers providing services in their community and said quotes shall exceed one hundred thirty-three percent of the average monthly premium currently required in the Missouri Consolidated Health Care Plan; and provided that up to Seven Million Dollars (\$7,000,000) of the funds appropriated herein may be used for direct medical services by local health agencies contracted through the Department of Health

From General Revenue Fund	\$13,779,806
From Federal Funds	76,595,626
From Federal Reimbursement Allowance Fund and Intergovernmental Transfers.	8,300,000
From Health Initiatives Fund	4,400,000
From Pharmacy Rebates Fund	755,579
From Premium Fund	1,000,000
From Intergovernmental Transfer Fund.	1,344,744

Total (0 F.T.E.) \$106,175,755

*I hereby veto \$72,902 to provide reimbursement for provisionally licensed psychologists, including \$19,873 general revenue. The Division of Medical Services has estimated the annual costs for these services to be \$1.2 million; however, the General Assembly only provided a fraction of the estimated costs for these services. Due to the fiscal constraints of the state, no additional provider groups should be added to the Medicaid program at this time. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

In addition, I hereby veto \$396,524 to increase dental rates in the Medicaid program, including \$81,448 general revenue. This will still provide sufficient funding to bring the dental rates up to 57 percent of the usual, customary and reasonable (UCR) rates. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$101,321 from \$13,779,806 to \$13,678,485 from General Revenue Fund.

By \$368,105 from \$76,595,626 to \$76,227,521 from Federal Funds.

From \$106,175,755 to \$105,706,329 in total for the section.

BOB HOLDEN, Governor

SECTION 11.475. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding uncompensated care hospital payments under the Medicaid fee-for-service and managed care programs, and further provided that the Division may use up to \$10,000,000 (dependent upon the receipt of additional federal funding) for the purpose of funding uncompensated care provided by University Hospital, Children's Hospital, Ellis Fischel Cancer Center, and Missouri Rehabilitation Center that are owned and operated by the Board of Curators as defined in Chapter 172, RSMo

From Federal Funds and Other Funds (0 F.T.E.) \$100,000,000E

SECTION 11.480. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Hundred Forty Million Dollars (\$140,000,000) to the Federal Reimbursement Allowance Fund

From General Revenue Fund \$140,000,000E

SECTION 11.485. — There is transferred out of the State Treasury, chargeable to the Federal Reimbursement Allowance Fund, One Hundred Forty Million Dollars (\$140,000,000) to the General Revenue Fund as a result of reconciling the Federal Reimbursement Allowance Fund

From Federal Reimbursement Allowance Fund \$140,000,000E

SECTION 11.490. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Eighty-Six Million Dollars (\$86,000,000) to the Nursing Facility Federal Reimbursement Allowance Fund

From General Revenue Fund \$86,000,000E

SECTION 11.495. — There is transferred out of the State Treasury,
chargeable to the Nursing Facility Federal Reimbursement
Allowance Fund, Eighty-Six Million Dollars (\$86,000,000) to the
General Revenue Fund as a result of reconciling the Nursing Facility
Federal Reimbursement Allowance Fund
From Nursing Facility Federal Reimbursement Allowance Fund. \$86,000,000E

SECTION 11.500. — There is transferred out of the State Treasury,
chargeable to the Nursing Facility Federal Reimbursement
Allowance Fund, One Million, Five Hundred Thousand Dollars
(\$1,500,000) to the Nursing Facility Quality of Care Fund
From Nursing Facility Federal Reimbursement Allowance Fund. \$1,500,000

SECTION 11.505. — To the Department of Social Services
For the Division of Medical Services
For the purpose of funding Nursing Facility Federal Reimbursement
Allowance payments as provided by law
From Federal Funds. \$151,607,000E
From Nursing Facility Federal Reimbursement Allowance Fund. 13,880,342E
Total (0 F.T.E.). \$165,487,342E

SECTION 11.510. — To the Department of Social Services
For the Division of Medical Services
For the purpose of funding Medicaid services for the Department of
Mental Health under the Medicaid fee-for-service and managed care
programs
From General Revenue Fund. \$7,057
From Federal Funds 185,194,756E
Total (0 F.T.E.). \$185,201,813

***SECTION 11.515.** — To the Department of Social Services
For the Division of Medical Services
For the purpose of funding medical benefits for recipients of the State
Medical Program, including coverage in managed care programs
From General Revenue Fund \$29,558,715
From Health Initiatives Fund. 353,437
Total (0 F.T.E.). \$29,912,152

*I hereby veto \$230,157 general revenue for increasing in-home services rates. There will still be funds to provide a \$.25 rate increase per hour to in-home service providers. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$230,157 from \$29,558,715 to \$29,328,558 from General Revenue.
From \$29,912,152 to \$29,681,995 in total for the section.

BOB HOLDEN, Governor

SECTION 11.520. — To the Department of Social Services
For the Division of Medical Services
For the purpose of supplementing appropriations for any medical service
under the Medicaid fee-for-service, managed care or State Medical
Program, including related services

From Federal Funds.	\$209,880,516
From Uncompensated Care Fund	6,100,000
From Pharmacy Rebates Fund	2,330,000
From Third-Party Liability Collections Fund	24,130,000
From Federal Reimbursement Allowance Fund	2,033,333
From Intergovernmental Transfer Fund	193,957,966
Total (0 F.T.E.).	<u>\$438,431,815</u>

SECTION 11.600. — To the Department of Social Services

For the Division of Aging

For the purpose of funding Central Administration and Support Services

Personal Service	\$600,136
Expense and Equipment.	<u>105,831</u>
From General Revenue Fund	705,967

Personal Service	696,258
Expense and Equipment.	<u>126,405</u>
From Federal Funds.	822,663

Expense and Equipment	
From Intergovernmental Transfer Fund.	<u>9,734</u>
Total (Not to exceed 37.97 F.T.E.).	<u>\$1,538,364</u>

SECTION 11.605. — To the Department of Social Services

For the Division of Aging

For the purpose of funding Home and Community Services personnel

Personal Service	\$6,631,755
Expense and Equipment.	<u>943,536</u>
From General Revenue Fund	7,575,291

Personal Service	7,974,787
Expense and Equipment.	<u>931,145</u>
From Federal Funds.	8,905,932

Expense and Equipment	
From Intergovernmental Transfer Fund.	<u>8,703</u>
Total (Not to exceed 478.86 F.T.E.).	<u>\$16,489,926</u>

***SECTION 11.610.** — To the Department of Social Services

For the Division of Aging

For the purpose of funding Institutional Services

Personal Service	\$4,115,773
Expense and Equipment.	<u>549,629</u>
From General Revenue Fund	4,665,402

Personal Service	6,551,642
Expense and Equipment	<u>1,854,907</u>
From Federal Funds	8,406,549

Personal Service	1,083,555
Expense and Equipment.	<u>2,276,449</u>
From Nursing Facility Quality of Care Fund	3,360,004

Expense and Equipment	
From Intergovernmental Transfer Fund.	<u>207,995</u>
Total (Not to exceed 307.54 F.T.E.).	\$16,639,950

*I hereby veto \$200,000 other funds to contract for quality monitoring and training inspection staff. These were one-time funds and inappropriate for ongoing staff. The Division of Aging has indicated this is a core function that they will perform with existing staff. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by \$200,000 from \$207,995 to \$7,995 from Intergovernmental Transfer Fund.

From \$16,639,950 to \$16,439,950 in total for the section.

BOB HOLDEN, Governor

***SECTION 11.615.** — To the Department of Social Services

For the Division of Aging

For the purpose of funding Home and Community Services programs

From General Revenue Fund	\$17,911,729
From Federal Funds	2,787,597
From Division of Aging Donations.	<u>50,000</u>
Total (0 F.T.E.).	\$20,749,326

*I hereby veto \$339,470 general revenue for increasing in-home services rates. There will still be funds to provide a \$.25 rate increase per hour to in-home service providers. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$339,470 from \$17,911,729 to \$17,572,259 from General Revenue Fund.

From \$20,749,326 to \$20,409,856 in total for the section.

BOB HOLDEN, Governor

SECTION 11.620. — To the Department of Social Services

For the Division of Aging

For the purpose of funding Home and Community Services grants; provided, however, that funds appropriated herein for home-delivered meals, distributed according to formula to the area agencies and which may, for whatever reason, not be expended shall be redistributed based upon need and ability to spend. The Area Agencies on Aging shall comply with all reporting requirements requested by the department and shall conduct public hearings on their spending plans and other operations as shall be required by the department

From General Revenue Fund	\$9,900,000
From Federal Funds	28,794,840
From Division of Aging Elderly Home Delivered Meals Trust Fund.	<u>430,000</u>
Total (0 F.T.E.).	\$39,124,840

SECTION 11.625. — To the Department of Social Services

For the Division of Aging

For the distributions to Area Agencies on Aging pursuant to the Older Americans Act and related programs

From General Revenue Fund (0 F.T.E.).	\$2,115,000
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***SECTION 11.630.** — To the Department of Social Services

For the Division of Aging

For the purpose of funding Self-Directed Attendant Care Service pilot programs. The providers of care must meet all the protections and requirements of providers in the Missouri Care Options Program. Pilot program clients must be chosen due to location constraints and unique scheduling needs that make them unable to access services through other programs

From General Revenue Fund (0 F.T.E.). \$259,650

*I hereby veto \$4,825 general revenue for increasing in-home services rates. There will still be funds to provide a \$.25 rate increase per hour to in-home service providers. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$4,825 from \$259,650 to \$254,825 from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 11.635.** — To the Department of Social Services

For the Division of Aging

For the purpose of funding Meal Preparation Equipment Grants

From Intergovernmental Transfer Fund (0 F.T.E.). \$125,000

*I hereby veto \$125,000 other funds for kitchen equipment for the Area Agencies on Aging. This item was originally part of the Department of Social Services' Fiscal Year 2002 core reduction plan. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$125,000 from \$125,000 to \$0 from Intergovernmental Transfer Fund.

BOB HOLDEN, Governor

***SECTION 11.640.** — To the Department of Social Services

For the Division of Aging

For the purpose of funding Adult Day Care Health Care Startup Grants

From General Revenue Fund (0 F.T.E.). \$125,000

*I hereby veto \$125,000 general revenue for adult day care grants. This item was originally part of the Department of Social Services' Fiscal Year 2002 core reduction plan. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$125,000 from \$125,000 to \$0 from General Revenue Fund.

BOB HOLDEN, Governor

Bill Totals

General Revenue.. . . .	\$1,274,879,681
Federal Funds.	3,793,332,121
Other Funds.	<u>571,530,570</u>

Total. \$5,639,742,372

Approved June 22, 2001

HB 12 [CCS SCS HCS HB 12]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CHIEF EXECUTIVE OFFICE AND MANSION, LT. GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEM, JUDICIARY, OFFICE OF STATE PUBLIC DEFENDER, GENERAL ASSEMBLY, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES, AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and Contingent expenses of the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Committee on Legislative Research, various joint committees, for the expenses of the interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2001 and ending June 30, 2002 as follows:

SECTION 12.005. — To the Governor

Personal Service and/or Expense and Equipment.	\$2,006,276
Annual salary adjustment in accordance with Section 105.005, RSMo	105
Personal Service and/or Expense and Equipment for the Mansion.	197,494
From General Revenue Fund.	\$2,203,875

SECTION 12.010. — To the Governor

For expenses incident to emergency duties performed by the National
Guard when ordered out by the Governor

From General Revenue Fund	\$1E
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SECTION 12.015. — To the Governor

For Association Dues

From General Revenue Fund (0 F.T.E.). \$144,750

SECTION 12.020. — To the Governor

For conducting special audits

From General Revenue Fund (0 F.T.E.). \$100,000

SECTION 12.025. — To the Governor

For the Governor's Mansion Preservation Advisory Commission

From General Revenue Fund. \$6,000

SECTION 12.030. — To the Governmental Emergency Fund CommitteeFor allocation by the committee to state agencies that qualify for
emergency or supplemental funds under the provisions of Section
33.720, RSMo

From General Revenue Fund (0 F.T.E.). \$1E

SECTION 12.035. — To the Lieutenant Governor

Personal Service and/or Expense and Equipment. \$419,472

Annual salary adjustment in accordance with Section 105.005, RSMo. 105

From General Revenue Fund (Not to exceed 8.50 F.T.E.). \$419,577

SECTION 12.040. — To the Secretary of State

Personal Service \$7,448,963

Annual salary adjustment in accordance with Section 105.005, RSMo 105

Expense and Equipment. 3,764,535

From General Revenue Fund 11,213,603

Personal Service 504,057

Expense and Equipment. 227,574

From Federal Funds 731,631

Personal Service 77,900

Expense and Equipment. 2,422,496

From Secretary of State's Technology Trust Fund 2,500,396

Personal Service 899,969

Expense and Equipment. 397,727

From Local Records Preservation Fund 1,297,696

Expense and Equipment

From Secretary of State Wolfner State Library Fund 35,000E

Personal Service 121,458

Expense and Equipment. 163,464

From State Institution Gift Trust Fund. 284,922

Total (Not to exceed 296.90 F.T.E.). \$16,063,248

SECTION 12.045. — To the Secretary of State

For historical repository grants

From Federal Funds (0 F.T.E.). \$300,000

SECTION 12.050. — To the Secretary of State
For refunds of securities, corporations, uniform commercial code, and
miscellaneous collections of the Secretary of State's Office
From General Revenue Fund (0 F.T.E.). \$100,000E

SECTION 12.055. — To the Secretary of State
For election costs associated with absentee ballots
From General Revenue Fund (0 F.T.E.). \$120,000

SECTION 12.060. — To the Secretary of State
For expenses of initiative referendum and constitutional amendments
From General Revenue Fund (0 F.T.E.). \$100,000E

SECTION 12.065. — To the Secretary of State
For preserving legal, historical, and genealogical materials and making
them available to the public, all expenditures
From State Document Preservation Fund (Not to exceed 3.00 F.T.E.). \$154,385E

SECTION 12.070. — To the Secretary of State
For the preservation of nationally significant records at the local level
From Federal Funds (0 F.T.E.). \$175,000

SECTION 12.075. — To the Secretary of State
For local records preservation grants
From Local Records Preservation Fund (0 F.T.E.). \$600,000

SECTION 12.080. — To the Secretary of State
For aid to public libraries
From General Revenue Fund (0 F.T.E.). \$3,770,657

SECTION 12.085. — To the Secretary of State
For the Remote Electronic Access for Libraries Program
From General Revenue Fund (0 F.T.E.). \$3,325,000

SECTION 12.090. — To the Secretary of State
For the Literacy Investment for Tomorrow Program
From General Revenue Fund (0 F.T.E.). \$69,450

SECTION 12.095. — To the Secretary of State
For all allotments, grants, and contributions from the federal government
or from any sources that may be deposited in the State Treasury for
the use of the Missouri State Library
From Federal Funds (0 F.T.E.). \$1,500,000E

***SECTION 12.100.** — To the Secretary of State
For library networking grants
From Library Networking Fund (0 F.T.E.). \$518,991

*I hereby veto \$31,153 library networking fund for library networking grants. The appropriation is being reduced to reflect the anticipated spending level. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

For library networking grants by \$31,153 from \$518,991 to \$487,838 from Library Networking Fund.

From \$518,991 to \$487,838 in total for the section.

BOB HOLDEN, Governor

***SECTION 12.102.** — To the Secretary of State

There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Four Hundred Sixty-three Thousand, Nine Hundred Ninety-one Dollars (\$463,991) to the Library Networking Fund as provided in Section 143.183 RSMo

From General Revenue Fund. \$463,991

*I hereby veto \$31,153 general revenue for the appropriated transfer to the library networking fund. The veto maintains the distribution ratio of taxes paid by non-resident athletes and entertainers as established by Section 143.183 RSMo. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$31,153 from \$463,991 to \$432,838 in total from General Revenue Fund.

From \$463,991 to \$432,838 in total for the section.

BOB HOLDEN, Governor

SECTION 12.105. — To the State Auditor

Personal Service.	4,715,728
Annual salary adjustment in accordance with Section 105.005, RSMo	105
Expense and Equipment	1,005,242
Personal Service and/or Expense and Equipment	1,035,768

For a pilot audit procurement program

Personal Service and/or Expense and Equipment.	501,620
From General Revenue Fund	\$7,258,463

Personal Service.	463,460
Expense and Equipment.	44,967
From Federal Funds	508,427

Personal Service.	58,804
Expense and Equipment.	22,580
From Gaming Commission Fund	81,384

Personal Service.	37,532
Expense and Equipment.	2,611
From Conservation Commission Fund	40,143

Personal Service	
From Parks Sales Tax Fund.	18,745

Personal Service	
From Soil & Water Sales Tax Fund	18,054

Personal Service.	631,564
Expense and Equipment.	24,678

From State Highways and Transportation Department Fund	656,242
Personal Service.	479,958
Expense and Equipment	44,724
Personal Service and/or Expense and Equipment.	<u>92,590</u>
From Petition Audit Revolving Trust Fund.	<u>617,272</u>
Total (Not to exceed 182.45 F.T.E.).	\$9,198,730

SECTION 12.110. — To the State Treasurer

Personal Service.	1,264,211
Annual salary adjustment in accordance with Section 105.005, RSMo	105
Expense and Equipment	494,050
Personal Service and/or Expense and Equipment	251,195
For contract services	<u>3,000</u>
From General Revenue Fund	<u>2,012,561</u>

Expense and Equipment	
From Central Check Mailing Service Revolving Fund	225,000E

Personal Service	
From State Highways and Transportation Department Fund	458,699

Personal Service	36,232
Expense and Equipment.	<u>3,280</u>
From Second Injury Fund	<u>39,512</u>

For Unclaimed Property Division administrative costs including	
Expense and Equipment for auctions, advertising, and promotions	
From Abandoned Fund Account	129,701E

For preparation and dissemination of information or publications, or for	
refunding overpayments	
From Treasurer's Information Fund	<u>8,000</u>
Total (Not to exceed 53.00 F.T.E.).	\$2,873,473

SECTION 12.115. — To the State Treasurer

For issuing duplicate checks or drafts as provided by law	
From General Revenue Fund (0 F.T.E.).	\$450,000E

SECTION 12.120. — To the State Treasurer

For payment of claims for abandoned property transferred by holders to the	
state in accordance with Section 447.543, RSMo	
From Abandoned Fund Account (0 F.T.E.).	\$4,000,000E

SECTION 12.125. — To the State Treasurer

For transfer of such sums as may be necessary to make payment of claims	
from the Abandoned Fund Account as required by Section 447.543,	
RSMo	
From General Revenue Fund	\$150,000E

SECTION 12.130. — To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned Fund Account, Twenty-Seven Million, Three Hundred Thousand Dollars (\$27,300,000) to the General Revenue Fund
 From Abandoned Fund Account \$27,300,000E

SECTION 12.135. — To the State Treasurer

For refunds of excess interest from the linked deposit program
 From General Revenue Fund (0 F.T.E.). \$4,000E

SECTION 12.140. — To the State Treasurer

For outlawed checks
 From General Revenue Fund (0 F.T.E.). \$5,000E

SECTION 12.145. — To the State Treasurer

There is transferred out of the State Treasury, chargeable to the funds listed below, to the Missouri Investment Trust Fund, contingent upon passage of legislation authorizing conveyance of the following funds to the Trust
 From Missouri Arts Council Trust Fund \$5,000,000E
 From Missouri Humanities Council Trust Fund 1,000,000E
 From Secretary of State Wolfner State Library Fund 375,000E
 Total \$6,375,000E

SECTION 12.150. — To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Debt Offset Escrow Fund, Eighty-One Thousand, Seven Hundred Seventy-Seven Dollars (\$81,777) to the General Revenue Fund
 From Debt Offset Escrow Fund. \$81,777E

SECTION 12.155. — To the State Treasurer

There is transferred out of the State Treasury, chargeable to various funds, One Dollar (\$1) to the General Revenue Fund
 From Various Funds. \$1E

SECTION 12.160. — To the Attorney General

Personal Service \$10,479,079
 Annual salary adjustment in accordance with Section 105.005, RSMo 105
 Expense and Equipment. 2,518,128
 From General Revenue Fund 12,997,312

Personal Service 360,598
 Expense and Equipment. 485,170
 From Federal Funds 845,768

Personal Service 95,065
 Expense and Equipment. 30,747
 From Gaming Commission Fund 125,812

Personal Service. 31,942
 Expense and Equipment. 4,715
 From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount 36,657

Personal Service	31,942
Expense and Equipment.....	<u>5,215</u>
From Solid Waste Management Fund	37,157
Personal Service	
From Petroleum Storage Tank Insurance Fund	21,930
Personal Service	33,392
Expense and Equipment.....	<u>11,300</u>
From Motor Vehicle Commission Fund	44,692
Expense and Equipment	
From Health Spa Regulatory Fund	5,000
Personal Service	31,930
Expense and Equipment.....	<u>4,715</u>
From Natural Resources Protection Fund-Air Permit Fee Subaccount	36,645
Expense and Equipment	
From Attorney General's Court Costs Fund	187,000
Personal Service	10,645
Expense and Equipment.....	<u>2,267</u>
From Soil and Water Sales Tax Fund	12,912
Personal Service	592,539
Expense and Equipment.....	<u>732,480</u>
From Merchandising Practices Revolving Fund	1,325,019
Personal Service	229,150
Expense and Equipment.....	<u>225,121</u>
From Workers' Compensation Fund	454,271
Personal Service	1,518,924
Expense and Equipment.....	<u>483,632</u>
From Second Injury Fund	2,002,556
Personal Service	
From Lottery Enterprise Fund	48,383
Personal Service	324,418
Expense and Equipment.....	<u>254,400</u>
From Attorney General's Antitrust Revolving Fund	578,818
Personal Service	31,930
Expense and Equipment.....	<u>4,715</u>
From Hazardous Waste Fund	36,645
Personal Service	10,657
Expense and Equipment.....	<u>2,265</u>
From Safe Drinking Water Fund	12,922

Personal Service	216,529
Expense and Equipment.	<u>10,165</u>
From Hazardous Waste Remedial Fund	226,694

Personal Service	21,905
Expense and Equipment.	<u>11,700</u>
From Inmate Incarceration Reimbursement Act Revolving Fund	33,605

Personal Service	10,645
Expense and Equipment.	<u>2,262</u>
From Mined Land Reclamation Fund.	<u>12,907</u>
Total (Not to exceed 364.05 F.T.E.).	\$19,082,705

SECTION 12.165. — To the Attorney General

For law enforcement, domestic violence and victims services

Expense and Equipment	
From Federal Funds (0 F.T.E.).	\$100,000

SECTION 12.170. — To the Attorney General

For expenses related to Americans with Disabilities Act cases

Personal Service	\$57,077
Expense and Equipment.	<u>31,360</u>
From General Revenue Fund (Not to exceed 1.50 F.T.E.).	\$88,437

SECTION 12.175. — To the Attorney General

For a Medicaid fraud unit

Personal Service	\$193,924
Expense and Equipment.	<u>149,113</u>
From General Revenue Fund	343,037

Personal Service	697,598
Expense and Equipment.	<u>809,711</u>
From Federal Funds	<u>1,507,309</u>
Total (Not to exceed 23.00 F.T.E.).	\$1,850,346

SECTION 12.180. — To the Attorney General

For the Missouri Office of Prosecution Services

Personal Service	\$122,420
Expense and Equipment.	<u>940,675E</u>
From Federal Funds	1,063,095

Personal Service	116,452
Expense and Equipment.	<u>139,844</u>
From Missouri Office of Prosecution Services Fund	256,296

Expense and Equipment	
From Missouri Office of Prosecution Services Revolving Fund	<u>80,000E</u>
Total (Not to exceed 5.50 F.T.E.).	\$1,399,391

SECTION 12.185. — To the Attorney General

For participation by the State of Missouri in the National Association of Attorneys General

Expense and Equipment
From General Revenue Fund (0 F.T.E.). \$39,962

SECTION 12.190. — To the Attorney General

There is transferred out of the State Treasury, chargeable to the General
Revenue Fund, One Hundred Eighty Thousand Dollars (\$180,000) to
the Attorney General's Court Costs Fund

From General Revenue Fund \$180,000

SECTION 12.195. — To the Attorney General

There is transferred out of the State Treasury, chargeable to the General
Revenue Fund, One Hundred Twenty-Five Thousand Dollars
(\$125,000) to the Attorney General's Antitrust Revolving Fund

From General Revenue Fund \$125,000

***SECTION 12.200.** — To the Supreme Court

For the purpose of funding Judicial Proceedings and Review

Personal Service	\$3,407,482
Expense and Equipment.	<u>982,036</u>
From General Revenue Fund	4,389,518

Expense and Equipment	
From Supreme Court Publications Revolving Fund.	<u>80,000</u>
Total (Not to exceed 76.00 F.T.E.).	\$4,469,518

*I hereby veto \$7,500 for a salary increase for staff of the Supreme Court. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Service by \$7,500 from \$3,407,482 to \$3,399,982.
From \$4,389,518 to \$4,382,018 in total from General Revenue Fund.
From \$4,469,518 to \$4,462,018 in total for the section.

BOB HOLDEN, Governor

SECTION 12.205. — To the Supreme Court

For participation by the State of Missouri in the National Center for State Courts

From General Revenue Fund (0 F.T.E.). \$129,039

SECTION 12.210. — To the Supreme Court

For the purpose of funding the State Courts Administrator

Personal Service	\$3,400,135
Expense and Equipment	<u>1,019,699</u>
From General Revenue Fund	4,419,834

Expense and Equipment	
From State Court Administration Revolving Fund	90,000

Expense and Equipment	
From Domestic Relations Resolution Fund	<u>500,000</u>
Total (Not to exceed 91.25 F.T.E.).	\$5,009,834

SECTION 12.215. — To the Supreme Court

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Supreme Court and other state courts

Personal Service	\$1,053,464
Expense and Equipment.	<u>9,361,408</u>
From Federal Funds (Not to exceed 22.25 F.T.E.).	\$10,414,872

SECTION 12.220. — To the Supreme Court

For the purpose of developing and implementing a program of statewide court automation

Personal Service	\$3,211,129
Expense and Equipment.	<u>7,541,193</u>
From General Revenue Fund	10,752,322

Personal Service	1,360,954
Expense and Equipment	<u>3,333,900E</u>
From the Statewide Court Automation Fund, and any grants, contributions, or receipts from the federal government or any other source deposited into the State Treasury for court automation	<u>4,694,854</u>
Total (Not to exceed 113.00 F.T.E.).	\$15,447,176

SECTION 12.224. — To the Supreme Court

For the purpose of funding Permanency Planning Programs

Expense and Equipment	
From General Revenue Fund (0 F.T.E.).	\$134,500

SECTION 12.225. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Three Million, Two Hundred Twenty-Six Thousand, Seventy-Five Dollars (\$3,226,075), to the Judicial Education and Training Fund

From General Revenue Fund	\$3,226,075
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SECTION 12.226. — To the Supreme Court

For the purpose of funding judicial education and training

Personal Service	\$608,366
Expense and Equipment	<u>2,407,367</u>
From Judicial Education and Training Fund (Not to exceed 16.00 F.T.E.).	\$3,015,733

SECTION 12.230. — To the Supreme Court

For the purpose of funding the Court of Appeals - Western District

Personal Service	\$2,947,658
Expense and Equipment.	<u>484,933</u>
From General Revenue Fund (Not to exceed 54.30 F.T.E.).	\$3,432,591

SECTION 12.235. — To the Supreme Court

For the purpose of funding the Court of Appeals - Eastern District

Personal Service	\$3,930,506
Expense and Equipment.	<u>561,094</u>
From General Revenue Fund (Not to exceed 77.25 F.T.E.).	\$4,491,600

***SECTION 12.240.** — To the Supreme Court

For the purpose of funding the Court of Appeals - Southern District

Personal Service	\$1,913,710
Expense and Equipment.....	<u>497,255</u>
From General Revenue Fund (Not to exceed 35.10 F.T.E.).	\$2,410,965

*I hereby veto \$60,340 for a law clerk in the Southern District Court of Appeals. This leaves the Court with two additional law clerks. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Personal Service by \$49,140 from \$1,913,710 to \$1,864,570.

Expense and Equipment by \$11,200 from \$497,255 to \$486,055.

From \$2,410,965 to \$2,350,625 in total from General Revenue Fund.

From \$2,410,965 to \$2,350,625 in total for the section.

BOB HOLDEN, Governor

SECTION 12.245. — To the Supreme Court

For the purpose of funding circuit court personnel

Personal Service	\$106,861,885
Personal Service and/or Expense and Equipment	1,200,000
Expense and Equipment.....	<u>1,287,329</u>
From General Revenue Fund	109,349,214

Personal Service	1,331,079
Expense and Equipment.....	<u>419,661</u>
From Federal Funds	1,750,740

Personal Service	217,830
Expense and Equipment.....	<u>128,039</u>
From Third Party Liability Collection Fund	345,869

Expense and Equipment	
From Fine Collections Center Interest Revolving Fund.....	<u>25,000</u>
Total (Not to exceed 2,915.20 F.T.E.).	\$111,470,823

SECTION 12.250. — To the Supreme Court

For the purpose of funding the payment of contingent personal service
and/or expense and equipment of circuit court personnel as authorized
by Section 476.265, RSMo

From General Revenue Fund	\$100,000
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For the purpose of making payments due from litigants in court
proceedings under set-off against debts authority as provided in
Section 488.020(3), RSMo

From Debt Offset Escrow Fund	<u>100,000E</u>
Total (0 F.T.E.).	\$200,000

SECTION 12.255. — To the Supreme Court

For the purpose of funding the payment of court reporters' fees for
preparation of transcripts as authorized and established by Section
485.100, RSMo

From General Revenue Fund (0 F.T.E.). \$226,000

SECTION 12.256. — To the Supreme Court

For county jury fees as provided in Section 494.455, RSMo

From General Revenue Fund (0 F.T.E.). \$268,000

SECTION 12.260. — To the Commission on Retirement, Removal, and
Discipline of Judges

For the purpose of funding the payment of expenses of the commission

Personal Service \$167,594

Expense and Equipment. 65,011

From General Revenue Fund (Not to exceed 2.75 F.T.E.). \$232,605

SECTION 12.265. — To the Supreme Court

For the purpose of funding the expenses of the members of the Appellate

Judicial Commission and the several circuit judicial commissions in

circuits having the non-partisan court plan, and for services rendered

by clerks of the Supreme Court, courts of appeals, and clerks in

circuits having the non-partisan court plan for giving notice of and

conducting elections as ordered by the Supreme Court

From General Revenue Fund. \$11,960

SECTION 12.270. — To the Supreme Court

For the purpose of funding costs associated with appointment of Senior

Judges

Personal Service

From General Revenue Fund (Not to exceed 9.00 F.T.E.). \$643,673

SECTION 12.300. — To the Office of State Public Defender

For the purpose of funding the State Public Defender System

Personal Service \$22,024,481

Expense and Equipment 5,724,591

For payment of expenses as provided by Chapter 600, RSMo

associated with the defense of violent crimes and/or the defense

of cases where a conflict of interest exists. 2,059,850

From General Revenue Fund 29,808,922

For expenses authorized by the Public Defender Commission as provided

by Section 600.090, RSMo

Personal Service 57,178

Expense and Equipment 1,157,356

From Legal Defense and Defender Fund 1,214,534

For refunds set-off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund 350,000E

For all grants and contributions of funds from the federal government or

from any other source which may be deposited in the State Treasury

for the use of the Office of the State Public Defender

From Federal Funds. 125,000

Total (Not to exceed 558.13 F.T.E.). \$31,498,456

SECTION 12.400. — To the Senate

Salaries of Members.	\$1,067,878
Annual salary adjustment in accordance with Section 105.005, RSMo	3,570
Mileage of Members	56,435
Senate Per Diem	226,100
Senate Contingent Expenses	10,010,954
Joint Contingent Expenses	437,690
Joint Committee on Administrative Rules	119,707
Joint Committee on Public Employee Retirement Systems	213,987
Joint Committee on Capital Improvements Oversight	118,964
Joint Committee on Gaming and Wagering	51,820
From General Revenue Fund	<u>12,307,105</u>

Senate Contingent Expenses	
From Senate Revolving Fund.	<u>40,000</u>
Total	<u>\$12,347,105</u>

SECTION 12.405. — To the House of Representatives

Salaries of Members.	\$5,100,168
Annual salary adjustment in accordance with Section 105.005, RSMo	17,115
Mileage of Members	342,660
Members' Per Diem	1,083,950
House Contingent Expenses	
Representatives' Expense Vouchers	1,956,000
Leadership Aides and Secretaries	5,502,364
House Research Staff	974,189
Committee Operations	380,298
House Staff	5,419,738
House Appropriations Committee Staff	455,357
From General Revenue Fund	<u>21,231,839</u>

House Contingent Expenses	
From House of Representatives Revolving Fund.	<u>45,000</u>
Total	<u>\$21,276,839</u>

SECTION 12.410. — To the Senate

For payment of dues to the Council of State Governments, the National Conference of State Legislatures, the National Conference of Commissioners on Uniform State Laws	
From General Revenue Fund	<u>\$284,403</u>

SECTION 12.415. — To the Committee on Legislative Research -
Administration

For payment of expenses of members, salaries and expenses of employees, and other necessary operating expenses	
From General Revenue Fund	<u>\$1,529,430</u>

SECTION 12.420. — To the Committee on Legislative Research

For paper, printing, binding, editing, proofreading, and other necessary expenses of publishing the Supplement to the Revised Statutes of the State of Missouri	
From General Revenue Fund	<u>\$373,644</u>

From Statutory Revision Fund.	535,800
Total	\$909,444

SECTION 12.425. — To the Committee on Legislative Research -
Oversight Division

For payment of expenses of members, salaries, and expenses of employees and other necessary operating expenses	
From General Revenue Fund	\$909,662

SECTION 12.430. — To the Interim Committees of the General Assembly
For the Joint Committee on Corrections

From General Revenue Fund	\$15,000
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Bill Totals

General Revenue Fund.	\$256,368,578
Federal Funds.	19,021,842
Other Funds.	23,733,311
Total.	\$299,123,731

Approved June 22, 2001

HB 13 [CCS SCS HCS HB 13]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: REAL PROPERTY LEASES, RELATED SERVICES, UTILITIES, SYSTEMS FURNITURE, STRUCTURAL MODIFICATIONS FOR NEW FTE, CAPITAL IMPROVEMENTS AND OTHER EXPENSES OF OFFICE OF ADMINISTRATION, AND TO TRANSFER MONEY AMONG CERTAIN FUNDS.

AN ACT to appropriate money for real property leases, related services, utilities, and systems furniture; and structural modifications for new FTE for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to appropriate money for capital improvements and the other expenses of the Office of Administration and the divisions and programs thereof, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2003 as follows:

SECTION 13.005. — To the Office of Administration
For the Division of Facilities Management

For the Department of Elementary and Secondary Education
 For the payment of real property leases, related services, utilities, and
 systems furniture; and structural modifications for new FTE
 Expense and Equipment
 From General Revenue Fund \$770,918
 From Federal Funds 5,703,124
 Total \$6,474,042

SECTION 13.010. — To the Office of Administration

For the Division of Facilities Management
 For the Department of Revenue
 For the Missouri State Lottery Commission
 For the payment of real property leases, related services, utilities, and
 systems furniture; and structural modifications for new FTE
 Expense and Equipment
 From Lottery Enterprise Fund. \$657,234

SECTION 13.015. — To the Office of Administration

For the Division of Facilities Management
 For the payment of real property leases, related services, and utilities; and
 structural modifications for new FTE for rents consolidated to the
 Office of Administration, including payments for the Department of
 Higher Education, the Department of Revenue, the Office of
 Administration, the Department of Agriculture, the Department of
 Insurance, the Department of Labor and Industrial Relations, the
 Department of Public Safety, the Department of Corrections, the
 Secretary of State, and the Office of State Courts Administrator
 Expense and Equipment
 From General Revenue Fund \$6,148,530
 From Federal Funds 210,180
 From Guaranty Agency Operating Fund 388,945
 From Department of Revenue Information Fund 43,700
 From State Highways and Transportation Department Fund 1,618,680
 From State Facility Maintenance and Operation Fund 526,498
 From Office of Administration Revolving Administrative Trust Fund 394,030
 From Children's Trust Fund 35,400
 From Department of Insurance Dedicated Fund 16,198
 From Missouri Veterans' Homes Fund 22,278
 From Local Records Preservation Fund 497
 From Judiciary Education and Training Fund 189,966
 Total \$9,594,902

SECTION 13.017. — To the Office of Administration

For the Division of Facilities Management
 For all expenditures related to rental, operation, and/or ownership of the
 Department of Natural Resources, Department of Social Services,
 Department of Health, Department of Mental Health, the Missouri
 Gaming Commission, and the Division of Probation and Parole
 buildings. Funds are to be administered by the Division of Facilities
 Management for capital improvements, personal service, expense and
 equipment, and/or fuel and utilities
 From General Revenue Fund \$4,148,447

From Federal Funds	2,704,321
From Other Funds	<u>607,316</u>
Total	\$7,460,084

SECTION 13.020. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, for the payment of real property leases, related services, and utilities; and structural modifications for new FTE for the state office buildings, the following amount to the State Facility Maintenance and Operation Fund

From General Revenue Fund	\$517,274
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SECTION 13.025. — To the Office of Administration

For the Division of Facilities Management

For the payment of systems furniture; and structural modifications for new FTE for the Department of Elementary and Secondary Education, the Department of Higher Education, the Department of Revenue, the Office of Administration, the Department of Agriculture, the Department of Natural Resources, the Department of Economic Development, the Department of Insurance, the Department of Labor and Industrial Relations, the Department of Public Safety, the Department of Corrections, the Department of Mental Health, the Department of Health, the Department of Social Services, the Secretary of State, the Attorney General, the State Treasurer, and the State Auditor

Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund	\$2,853,000
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SECTION 13.030. — To the Office of Administration

For the Division of Facilities Management

For the payment of real property leases, related services, utilities, and systems furniture; and structural modifications for new FTE for consolidated multi-tenant leases

Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund	\$3,000,000
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SECTION 13.035. — To the Office of Administration

For the Division of Facilities Management

For the Missouri Ethics Commission

For the payment of real property leases, related services, utilities, and systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund	\$195,670
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SECTION 13.040. — To the Office of Administration

For the Division of Facilities Management

For the Department of Agriculture

For the payment of real property leases, related services, utilities, and systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund	\$42,918
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From Grain Inspection Fees Fund	114,134
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From Milk Inspection Fees Fund	26,118
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From Petroleum Inspection Fund	<u>15,408</u>
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Total \$198,578

SECTION 13.045. — To the Department of Natural Resources

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund \$988,086

From any funds administered by the Department of Natural Resources except

General Revenue Fund 3,522,224

Total \$4,510,310

SECTION 13.050. — To the Office of Administration

For the Division of Facilities Management

For the Department of Economic Development

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund \$166,716

From Federal Funds 4,764,486

From Other Funds 2,939,261

Total \$7,870,463

SECTION 13.055. — To the Office of Administration

For the Division of Facilities Management

For the Department of Labor and Industrial Relations

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund \$261,320

From Federal Funds 407,036

From Crime Victims' Compensation Fund 82,832

From Workers' Compensation Fund 848,468

Total \$1,599,656

SECTION 13.060. — To the Office of Administration

For the Division of Facilities Management

For the Department of Public Safety

For the State Highway Patrol

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From State Highways and Transportation Department Fund \$1,584,129

SECTION 13.065. — To the Office of Administration

For the Division of Facilities Management

For the Department of Public Safety

For the Adjutant General

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From Federal Funds \$2,026,036

SECTION 13.070. — To the Office of Administration

For the Division of Facilities Management

For the Department of Public Safety

For the Gaming Commission

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From Gaming Commission Fund \$815,413

SECTION 13.075. — To the Office of Administration

For the Division of Facilities Management

For the Department of Corrections

For the Office of the Director

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund \$1,885,000

SECTION 13.080. — To the Office of Administration

For the Division of Facilities Management

For the Department of Corrections

For Missouri Vocational Enterprises

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From Working Capital Revolving Fund \$347,170

SECTION 13.085. — To the Office of Administration

For the Division of Facilities Management

For the Department of Corrections

For the Board of Probation and Parole

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund \$12,321,497

SECTION 13.090. — To the Office of Administration

For the Division of Facilities Management

For the Department of Mental Health

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund \$5,455,156

From Federal Funds. 113,700

Total \$5,568,856

SECTION 13.095. — To the Office of Administration

For the Division of Facilities Management

For the Department of Health

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund	\$2,695,060
From Federal Funds	2,519,182
From Department of Health Donated Fund	4,720
From Early Childhood Development, Education and Care Fund	23,600
From Missouri Public Health Services Fund	<u>4,724</u>
Total	\$5,247,286

SECTION 13.100. — To the Office of Administration

For the Division of Facilities Management

For the Department of Social Services

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund	\$20,593,979
From Federal Funds	14,953,768
From Third Party Liability Collections Fund	8,496
From Pharmacy Rebates Fund	110,832
From Child Support Enforcement Collections Fund	485,360
From Nursing Facility Quality of Care Fund	<u>23,744</u>
Total	\$36,176,179

SECTION 13.105. — To the Office of Administration

For the Division of Facilities Management

For the Attorney General

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund	\$554,533
From Federal Funds	192,572
From Missouri Office of Prosecution Services Fund	19,758
From Merchandising Practices Revolving Fund	278,220
From Workers' Compensation Fund	186,050
From Second Injury Fund	190,306
From Attorney General's Anti-Trust Fund	<u>18,998</u>
Total	\$1,440,437

SECTION 13.110. — To the Office of Administration

For the Division of Facilities Management

For the State Auditor

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund	\$123,272
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SECTION 13.115. — To the Office of Administration

For the Division of Facilities Management

For the State Treasurer

For the payment of real property leases, related services, utilities, and
systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue Fund	\$6,076
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SECTION 13.120. — There is transferred out of the State Treasury, chargeable to the funds shown below, for the transfer of funds from the leasing budget to the operating budget for modifications or systems furniture purchases in state-owned facilities, the following amount to the State Facility Maintenance and Operation Fund

From General Revenue Fund	\$2E
From Federal Funds	2E
From Other Funds.	<u>2E</u>
Total	\$6

SECTION 13.130. — To the Office of Administration

For the Division of Facilities Management

For payment of rent shortfalls in the second year of the biennium

From General Revenue Fund.	\$115,000
From Federal Funds	57,500
From Other Funds.	<u>57,500</u>
Total.	\$230,000

Bill Totals

Year 1 (2002)

General Revenue.	\$28,739,929
Federal Funds.	17,761,653
Other Funds.	<u>6,576,442</u>
Total.	\$53,078,024

Year 2 (2003)

General Revenue.	\$28,249,525
Federal Funds.	17,720,754
Other Funds.	<u>6,880,739</u>
Total.	\$52,851,018

Approved June 22, 2001

HB 14 [CCS SCS HCS HB 14]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CAPITAL IMPROVEMENTS AND OTHER PURPOSES.

AN ACT to appropriate money for the expenses, grants, distributions, planning and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions of the Department of Health, Department of Social Services, Department of Mental Health, Department of Public Safety, Department of Higher Education and institutions of higher education included therein, Department of Elementary and Secondary Education, and the Office of Administration, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2001 and ending June 30, 2002.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each Department, Division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2002, as follows:

SECTION 14.005. — For the purpose of funding programs to improve
health care access and treatment

To the Department of Health

For the purpose of funding the Healthy Communities Program.....	\$1,713,676
Personal Service	65,508
Expense and Equipment.....	48,566
From Healthy Families Trust Fund Health Care Account	1,827,750

To the Department of Health

For the purpose of funding the Healthy Community Workforce Program
and related expenses

From Healthy Families Trust Fund Health Care Account	243,700
From Donated Funds	1,000,000

To the Department of Social Services

For the purpose of funding grants to Federally Qualified Health Centers

From Healthy Families Trust Fund Health Care Account	5,000,000
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To the University of Missouri Columbia School of Medicine

For the purpose of funding the telemedicine program

From Healthy Families Trust Fund Health Care Account	3,400,000
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To the Department of Health

For the purpose of funding childhood lead screenings

From Healthy Families Trust Fund-Health Care Account	1,340,350
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To the Department of Social Services

For the purpose of funding one-time costs of the Safety Net Program

From Healthy Families Trust Fund Health Care Account	20,000,000
From Federal Funds	31,348,000

To the Department of Social Services

For the purpose of funding the Safety Net Program to include provider
sponsored and community-based clinics and grants to social welfare
boards

From Healthy Families Trust Fund - Health Care Account	50,959,100
From Federal Funds	16,604,434

To the Department of Mental Health

For the purpose of funding the Safety Net Program

From Healthy Families Trust Fund - Health Care Account	5,091,900
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To the Department of Social Services

For the purpose of funding safety net services for the Department of
Mental Health
From Federal Funds. 9,348,988

To the Department of Public Safety
For the Division of Fire Safety
For firefighter training contracted services
Expense and Equipment
From Healthy Families Trust Fund - Health Care Account 600,000

To the Office of Administration
For the Division of Design and Construction
For design and construction of a state health lab
From Healthy Families Trust Fund - Health Care Account. 25,000,000
Total (Not to exceed 2.00 F.T.E.). \$171,764,222

SECTION 14.010. — For the purpose of funding programs to improve early
childhood care and education

To the Department of Elementary and Secondary Education
For the purpose of funding additional home visits for three- to
five-year-olds and at-risk services in the Parents as Teachers
Program. \$6,092,500
For the purpose of improving accreditation resources 365,550

To the Department of Social Services
For community grants to improve early child care opportunities 901,690
For the purpose of funding improvement to the quality of early childhood
and youth development care and education. It is designed to bridge
the gap and calls for coordination with Head Start, Parents As
Teachers, and Early Head Start and other such programs. These
grants will be awarded to communities to target "at-risk" and
minorities populations. A contracting relationship shall be established
with a community based not-for-profit organization to help identify
families in the 6-county area that have children ages three to five that
need more intensive support. Said community based not-for-profit
shall be exempt from taxation pursuant to Section 501(c)(3) of the
Internal Revenue Code, chartered by a national body, certified as an
MBE corporation, and based in the target area served. Funding shall
accurately reflect additional transportation costs involved in
identifying targeted families for recruitment who live in sparsely
populated rural communities
in the 6-county area being served. 243,700
For the Early Head Start Program 1,584,050
For payments to child care providers 3,533,650
For a program and related expenses to coordinate early childhood
programs. 243,700

To the Department of Health
For home-visitation programs 852,950
For programs to improve the quality of child care 487,400
From Healthy Families Trust Fund Early Child Care Account (0 F.T.E.). \$14,305,190

SECTION 14.015. — To the Office of Administration

For the purpose of funding life sciences grants and related expenses

From Healthy Families Trust Fund Life Sciences Account (0 F.T.E.). \$21,567,450

SECTION 14.020. — To the Department of HealthFor the purpose of funding a comprehensive tobacco use prevention
program

Personal Service \$514,392

For grants and other program expenditures 19,025,608

For the purpose of funding community based programs,

provided that no less than 80% of the funds shall be directed

to Kansas City, St. Louis, and the Bootheel area and these

funds shall be directed toward at-risk youth to prevent

and reduce tobacco use. The remaining funds shall be

distributed to at-risk low socio-economic areas to

prevent and reduce tobacco use. 2,636,700

From Healthy Families Trust Fund Tobacco Prevention Account

(Not to exceed 13.00 F.T.E.). \$22,176,700

SECTION 14.030. — There is transferred out of the State Treasury,

chargeable to the Healthy Families Trust Fund, Eighty-Nine Million,

Three Hundred Thousand Dollars (\$89,300,000) to the General

Revenue Fund

From Healthy Families Trust Fund. \$89,300,000

SECTION 14.035. — There is transferred out of the State Treasury,

chargeable to the Healthy Families Trust Fund, One Hundred

Thirteen Million, Five Hundred Thousand Dollars (\$113,500,000) to

the Healthy Families Trust Fund Health Care Account

From Healthy Families Trust Fund. \$113,500,000

SECTION 14.040. — There is transferred out of the State Treasury,

chargeable to the Healthy Families Trust Fund, Fourteen Million, Four

Hundred Thousand Dollars (\$14,400,000) to the Healthy Families

Trust Fund Early Child Care Account

From Healthy Families Trust Fund. \$14,400,000

SECTION 14.045. — There is transferred out of the State Treasury,

chargeable to the Healthy Families Trust Fund, Twenty-One Million,

Six Hundred Thousand Dollars (\$21,600,000) to the Healthy Families

Trust Fund Life Sciences Account

From Healthy Families Trust Fund. \$21,600,000

SECTION 14.050. — There is transferred out of the State Treasury,

chargeable to the Healthy Families Trust Fund, Twenty-Two Million,

Two Hundred Thousand Dollars (\$22,200,000) to the Healthy

Families Trust Fund Tobacco Prevention Account

From Healthy Families Trust Fund. \$22,200,000

SECTION 14.055. — There is transferred out of the State Treasury,

chargeable to the Healthy Families Trust Fund, Sixty-Three Million,

Two Hundred Thousand Dollars (\$63,200,000) to the Healthy Families Trust Fund - Senior Prescription Account
 From Healthy Families Trust Fund. \$63,200,000

SECTION 14.060. — There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, Fifty Million Dollars (\$50,000,000) to the Fund for Missouri's Future
 From Healthy Families Trust Fund. \$50,000,000

Bill Totals

General Revenue Fund. \$0
 Federal Funds. 57,301,422
 Other Funds. 172,512,140
 Total. \$229,813,562

Approved June 22, 2001

HB 15 [CCS SCS HCS HB 15]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2001.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2001, as follows:

SECTION 15.005. — To the Department of Elementary and Secondary Education
 For distributions to the free public schools under the School Foundation
 Program as provided in Chapter 163, RSMo, for the Early Childhood
 Special Education Program
 From Early Childhood Development, Education and Care Fund. \$445,259

SECTION 15.010. — To the Department of Elementary and Secondary Education
 For the First Steps Program
 From Federal Funds. \$776,837
 From Early Childhood Development, Education and Care Fund. 2,823,109
 Total. \$3,599,946

SECTION 15.015. — To the Department of Elementary and Secondary Education
 For the State Occupational Information Coordinating Committee
 Expense and Equipment
 From Federal Funds. \$15,010

SECTION 15.020. — To the Department of Higher Education

For statewide initiatives

Personal Service

From Federal Funds. \$76,845

SECTION 15.025. — To the Department of Higher Education

For the Missouri Guaranteed Student Loan Program

For student loan default aversion services. \$1,500,000

For payment of fees for collection of defaulted loans. 2,000,000

For payment of penalties to the federal government associated with

late deposit of default collection. 200,000From Guaranty Agency Operating Fund. \$3,700,000**SECTION 15.030.** — To the Department of Higher Education

There is transferred out of the State Treasury, chargeable to the Federal

Student Loan Reserve Fund, Four Million Dollars (\$4,000,000) to the

Guaranty Agency Operating Fund

From Federal Student Loan Reserve Fund. \$4,000,000E

SECTION 15.035. — To the Office of Administration

For the Division of Information Services

Personal Service

From Office of Administration Revolving Administrative Trust Fund. \$150,000

SECTION 15.040. — To the Office of Administration

For the Missouri Ethics Commission

Personal Service

From General Revenue Fund. \$5,608

SECTION 15.045. — To the Office of Administration

For payment of retirement benefits to the Public School Retirement

System pursuant to Section 104.342, RSMo

From State School Moneys Fund. \$38,460E

SECTION 15.050. — To the Office of Administration

To provide contingency funding for payroll expenses

The Commissioner of Administration shall provide a monthly report

specifying the deficient accounts, funds and amounts submitted for

payment from this appropriation. This report shall be submitted to the

Chairs of the Senate Appropriations Committee and the House

Budget Committee

From General Revenue Fund. \$1E

SECTION 15.053. — To the Office of Administration

For the Department of Labor and Industrial Relations

For design, renovation, construction, and improvements at the St. Louis

Division of Employment Security Office for the administration of this

State's unemployment compensation law and public employment

offices, from the federal Reed Bill monies subaccount, made available

to this state under Section 903 of the Social Security Act, as amended,

and other funds

From Unemployment Compensation Administration Fund. \$372,586

From Special Employment Security Fund. 2,762,846
Total. \$3,135,432

SECTION 15.055. — To the Office of Administration
For the Missouri Veterans' Commission
For construction of a dementia wing at the St. Louis Veterans' Home, a
veterans' home at Mt. Vernon, and outpatient clinics statewide
From Veterans' Commission Capital Improvement Trust Fund. \$5,445,000

SECTION 15.060. — To the Office of Administration
For the Department of Corrections
For construction of the Eastern Reception, Diagnostic and Correctional
Center at Bonne Terre
From Fourth State Building Fund. \$2,512,953

SECTION 15.065. — To the Office of Administration
For modifications and improvements to the sewage treatment system at the
Crossroads Correctional Center
From General Revenue Fund. \$1,660,248

SECTION 15.070. — There is transferred out of the State Treasury,
chargeable to the Healthy Families Trust Fund, One Hundred
Twenty-Six Million, Nine Hundred Thousand Dollars
(\$126,900,000) to the General Revenue Fund
From Healthy Families Trust Fund. \$126,900,000

SECTION 15.075. — To the Department of Agriculture
For the Office of the Director
Expense and Equipment
From Federal Funds. \$63,000

SECTION 15.080. — To the Department of Economic Development
For general administration of Community Development activities
Expense and Equipment
From General Revenue Fund. \$116,037

SECTION 15.085. — To the Department of Economic Development
For the Division of Professional Registration
Expense and Equipment
From Professional Registration Fees Fund. \$7,111

SECTION 15.090. — To the Department of Insurance
Personal Service. \$8,164
Expense and Equipment. 13,741
From Department of Insurance Dedicated Fund. \$21,905

SECTION 15.105. — To the Department of Public Safety
For the State Highway Patrol
For the enforcement program
Personal Service. \$533,226
Expense and Equipment. 249,960
From Federal Funds. \$783,186

SECTION 15.110. — To the Department of Public Safety For the Division of Highway Safety For all allotments, grants and contributions from federal sources that may be deposited in the State Treasury for grants of National Highway Safety Act moneys	
From Federal Funds.	\$10,445,394
 SECTION 15.115. — There is transferred out of the State Treasury, chargeable to the Gaming Commission Fund, Forty-Six Thousand, Six Hundred Twelve Dollars (\$46,612) to the Compulsive Gamblers Fund	
From Gaming Commission Fund.	\$46,612
 SECTION 15.120. — To the Adjutant General For the National Guard Tuition Assistance Program	
From Missouri National Guard Trust Fund.	\$607,717
 SECTION 15.125. — To the Department of Corrections For the purpose of funding the expense of fuel and utilities department wide	
From General Revenue Fund.	\$3,005,511
 SECTION 15.130. — To the Board of Public Buildings For the Department of Corrections For the purpose of funding the expense of fuel and utilities department wide	
From General Revenue Fund.	\$465,000
 SECTION 15.135. — To the Department of Corrections For the Division of Adult Institutions For the purpose of funding Southeast Correctional Center at Charleston start up costs	
From General Revenue Fund.	\$400,000
 SECTION 15.140. — To the Department of Corrections For the Division of Offender Rehabilitative Services For the purpose of funding contractual services for physical health care	
From General Revenue Fund.	\$5,868,027
 SECTION 15.145. — To the Department of Mental Health For the Office of the Director For the purpose of funding federal grants which become available between sessions of the General Assembly Expense and Equipment	
From Federal Funds.	\$1,002,048
 SECTION 15.150. — To the Department of Mental Health For the Division of Comprehensive Psychiatric Services For the purpose of funding fuel and utility expenses at state facilities operated by the Division of Comprehensive Psychiatric Services, provided that up to three percent of this appropriation may be used for	

facilities operated by the Division of Mental Retardation and Developmental Disabilities
Expense and Equipment
From General Revenue Fund. \$688,755

SECTION 15.160. — To the Department of Mental Health
For the Division of Mental Retardation and Developmental Disabilities

For the purpose of funding fuel and utility expenses at state facilities operated by the Division of Mental Retardation and Developmental Disabilities, provided that up to three percent of this appropriation may be used for facilities operated by the Division of Comprehensive Psychiatric Services
Expense and Equipment
From General Revenue Fund. \$379,308

SECTION 15.165. — To the Department of Social Services
For Departmental Administration

For the purpose of funding Grandparent Foster Care payments
From General Revenue Fund. \$9,274,737

SECTION 15.170. — To the Department of Social Services
For Administrative Services

For the purpose of funding the Division of Data Processing
Expense and Equipment
From General Revenue Fund. \$534,576
From Federal Funds. 513,418
Total. \$1,047,994

SECTION 15.175. — To the Department of Social Services
For the Division of Family Services

For the purpose of funding job search assistance, skill training services, and emergency intervention services, including transportation expenses and other related expenses for active FUTURES, Temporary Assistance, and Work First participants
From General Revenue Fund. \$806,683
From Federal Funds 2,974,797
Total. \$3,781,480

SECTION 15.180. — To the Department of Social Services
For the Division of Family Services

For the purpose of funding childcare services for recipients of the programs funded by the Temporary Assistance for Needy Families Block Grant, those who would be at risk of being eligible for Temporary Assistance for Needy Families and low-income families, the general administration of the programs, early childhood care and education programs pursuant to Chapter 313, RSMo, and to support the Educare program not to exceed \$3,000,000 expenses
From Federal Funds. \$11,250,000

SECTION 15.185. — To the Department of Social Services
For the Division of Family Services

For the purpose of funding General Relief Program payments
From General Revenue Fund..... \$820,000

SECTION 15.190. — To the Department of Social Services
For the Division of Family Services
For the purpose of funding Blind Pensions and Supplemental
payments to blind persons
From Blind Pension Fund..... \$150,000

SECTION 15.195. — To the Department of Social Services
For the Division of Family Services
For the purpose of funding the Low-Income Home Energy
Assistance Program
From General Revenue Fund..... \$5,000,000
From Federal Funds .. 26,235,110E
Total..... \$31,235,110

SECTION 15.200. — To the Department of Social Services
For the Division of Family Services
For the purpose of funding any program authorized under the provisions
of House Bill No. 1111 Section 11.235, an Act of the 90th General
Assembly, Second Regular Session
From General Revenue Fund..... \$4,994,397
From Federal Funds .. 3,265,859
Total..... \$8,260,256

SECTION 15.205. — To the Department of Social Services
For the Division of Family Services
For the purpose of funding grants or contracts for local initiatives to assist
victims of domestic violence
From Federal Funds..... \$347,534

SECTION 15.210. — To the Department of Social Services
For the Division of Aging
For the purpose of funding Home and Community Services grants;
provided, however, that funds appropriated herein for Home
Delivered Meals, distributed according to formula to the area
agencies and which may, for whatever reason, not be expended shall
be redistributed based upon need and ability to spend. The Area
Agencies on Aging shall comply with all reporting requirements
requested by the department and shall conduct public hearings on their
spending plans and other operations as shall be required by the
department.
From Federal Funds..... \$1,750,000

SECTION 15.213. — To the State Treasurer
Expense and Equipment
From General Revenue Fund..... \$9,643

SECTION 15.215. — To the Attorney General
Personal Service..... \$28,125
Expense and Equipment .. 76,275

From General Revenue Fund.	104,400
Personal Service.	141,810
Expense and Equipment	333,190
From Merchandising Practices Revolving Fund.	475,000
Total.	\$579,400

SECTION 15.220. — To the Office of State Public Defender
 For expenses authorized by the Public Defender Commission as provided
 by Section 600.090, RSMo
 Expense and Equipment
 From Legal Defense and Defender Fund. \$400,000

SECTION 15.330. — To the Office of Administration
 For the Adjutant General - Missouri National Guard
 For planning and design of the Maryville Armory/Community Center
 From Federal Funds. \$692,445

Bill Totals
 General Revenue Fund. \$34,132,931
 Federal Funds. 60,564,069
 Other Funds. 150,485,972
 Total. \$245,182,972

Approved April 26, 2001

HB 16 [CCS SCS HB 16]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CAPITAL IMPROVEMENTS AND OTHER PURPOSES.

AN ACT to appropriate money for capital improvement and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the period beginning July 1, 2001 and ending June 30, 2003.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, for the agency, program, and purpose stated, chargeable to the fund designated, for the period beginning July 1, 2001 and ending June 30, 2003, as follows:

***SECTION 16.002.** — To the Office of Administration
 For the Department of Elementary and Secondary Education
 For corrective construction inspections at the State Schools for the
 Severely Handicapped, Missouri School for the Blind, and Missouri
 School for the Deaf

Representing expenditures originally authorized under the provisions of
House Bill Section 18.005, an Act of the 89th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 15.008 an Act of the 90th General
Assembly, First Regular Session

From Bingo Proceeds for Education Fund. \$64,572

*By \$54,326 from \$64,572 to \$10,246 in total from Bingo Proceeds for Education Fund.

BOB HOLDEN, Governor

SECTION 16.004. — To the Office of Administration
For the Department of Elementary and Secondary Education

For design, construction, and equipment purchase for improvements to
playgrounds at State Schools for the Severely Handicapped,
including Maple Valley, Lakeview Woods, and E. W. Thompson
(Trails West) State Schools

Representing expenditures originally authorized under the provisions of
House Bill Section 18.025, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.022, an Act of the 90th General
Assembly, First Regular Session

From Donated and Other Funds (not including General Revenue).. . . . \$1E

***SECTION 16.006.** — To the Office of Administration
For the Department of Elementary and Secondary Education

For maintenance, repairs, replacements, and improvements at State
Schools for the Severely Handicapped in Park Hills, Union,
Higginsville, Potosi, and St. Peters

Representing expenditures originally authorized under the provisions of
House Bill Section 17.005, an Act of the 90th General Assembly,
First Regular Session

From Bingo Proceeds for Education Fund. \$484,661

*By \$177,477 from \$484,661 to \$307,184 in total from Bingo Proceeds for Education Fund.

BOB HOLDEN, Governor

***SECTION 16.008.** — To the Office of Administration
For the Department of Elementary and Secondary Education

For maintenance, repairs, replacements, and improvements of roofing
systems at the Missouri School for the Blind

Representing expenditures originally authorized under the provisions of
House Bill Section 17.010, an Act of the 90th General Assembly,
First Regular Session

From Bingo Proceeds for Education Fund. \$196,488

*By \$9,382 from \$196,488 to \$187,106 in total from Bingo Proceeds for Education Fund.

BOB HOLDEN, Governor

***SECTION 16.010.** — To the Office of Administration
For the Department of Elementary and Secondary Education

For maintenance, repairs, replacements, and improvements of the power
plant at the Missouri School for the Deaf

Representing expenditures originally authorized under the provisions of
House Bill Section 17.015, an Act of the 90th General Assembly,
First Regular Session
From Bingo Proceeds for Education Fund. \$92,100

*By \$21 from \$92,100 to \$92,079 in total from Bingo Proceeds for Education Fund.

BOB HOLDEN, Governor

SECTION 16.012. — To the Office of Administration

For the Department of Elementary and Secondary Education

For supplemental ADA modifications at B.W.Shepard, Lakeview Woods,
Maple Valley, and Trails West State Schools for the Severely Handi-
capped

Representing expenditures originally authorized under the provisions of
House Bill Section 18.010, an Act of the 90th General Assembly,
First Regular Session
From Bingo Proceeds for Education Fund. \$445,624

***SECTION 16.014.** — To the Office of Administration

For the Department of Elementary and Secondary Education

For repairs, replacements, improvements, and supplemental ADA
modifications at the Missouri School for the Blind

Representing expenditures originally authorized under the provisions of
House Bill Section 18.020, an Act of the 90th General Assembly,
First Regular Session
From Bingo Proceeds for Education Fund. \$2,354,032

*By \$152,218 from \$2,354,032 to \$2,201,814 in total from Bingo Proceeds for Education Fund.

BOB HOLDEN, Governor

***SECTION 16.016.** — To the Office of Administration

For the Department of Elementary and Secondary Education

For repairs, replacements, improvements and supplemental ADA
modifications at the Missouri School for the Deaf

Representing expenditures originally authorized under the provisions of
House Bill Section 18.025, an Act of the 90th General Assembly,
First Regular Session
From Bingo Proceeds for Education Fund. \$726,284

*By \$5,879 from \$726,284 to \$720,405 in total from Bingo Proceeds for Education Fund.

BOB HOLDEN, Governor

***SECTION 16.018.** — To Central Missouri State University

For planning, design, renovation, and improvements at the
Ward Edwards Library

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.010, an Act of the 89th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 15.058, an Act of the 90th General
Assembly, First Regular Session
From General Revenue Fund. \$7,669,666

*By \$4,143,036 from \$7,669,666 to \$3,526,630 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.020.** — To Central Missouri State University

For renovation of the Wood Building

Representing expenditures originally authorized under the provisions of
House Bill Section 18.030, an Act of the 90th General Assembly,
First Regular Session

From Lottery Proceeds Fund. \$2,294,321

*By \$319,355 from \$2,294,321 to \$1,974,966 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.022.** — To Harris-Stowe State College

For lighting, landscaping, development of new land, and
to acquire and utilize contiguous property

Representing expenditures originally authorized under the provisions of
House Bill Section 18.041, an Act of the 88th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.066, an Act of the 90th General
Assembly, First Regular Session

From Gaming Proceeds for Education Fund. \$90,820

*By \$23,504 from \$90,820 to \$67,316 in total from Gaming Proceeds for Education Fund.

BOB HOLDEN, Governor

***SECTION 16.024.** — To Harris-Stowe State College

For library furnishings and construction, renovations, and improvements to
the existing library and the science lab storage area

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.040, an Act of the 88th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 15.068, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$7,113

From Lottery Proceeds Fund. \$1,189

Total. \$8,302

*By \$692 from \$1,189 to \$497 in total from Lottery Proceeds Fund.

From \$8,302 to \$7,610 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.026.** — To Harris-Stowe State College

For planning, design, and construction of a Physical Education
and Performing Arts building

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.020, an Act of the 89th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 15.070, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$3,600,424

*By \$453,217 from \$3,600,424 to \$3,147,207 in total from General Revenue Fund.

BOB HOLDEN, Governor

SECTION 16.028. — To Harris-Stowe College

For planning, design, and construction of a physical education and
performing arts building

Representing expenditures originally authorized under the provisions of
House Bill Section 18.061, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$1,600,000

***SECTION 16.030.** — To Lincoln University

For design of renovations at Page Hall

Representing expenditures originally authorized under the provisions of
House Bill Section 18.050, an Act of the 88th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 15.072, an Act of the 90th General
Assembly, First Regular Session

From Gaming Proceeds for Education Fund. \$84,158

*By \$20,622 from \$84,158 to \$63,536 in total from Gaming Proceeds for Education Fund.

BOB HOLDEN, Governor

***SECTION 16.032.** — To Lincoln University

For design, renovation, and improvements at Page Hall

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.015, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.076, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$1,663,170

*By \$1,102,137 from \$1,663,170 to \$561,033 in total from General Revenue Fund.

BOB HOLDEN, Governor

SECTION 16.034. — To Lincoln University

For planning and design of renovations to Jason Hall

Representing expenditures originally authorized under the provisions of
House Bill Section 18.063, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$423,195

***SECTION 16.036.** — To Linn State Technical College

For design and construction of the information technology center and
campus infrastructure

Representing expenditures originally authorized under the provisions of
House Bill Section 18.065, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$636,786

From Lottery Proceeds Fund 1,722,618

Total. \$2,359,404

*By \$63,498 from \$636,786 to \$573,288 in total from General Revenue Fund.
By \$1,722,618 from \$1,722,618 to \$0 in total from Lottery Proceeds Fund.
From \$2,359,404 to \$573,288 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.038.** — To Missouri Western State College
For Phase II construction and renovation at the Eder building
Representing expenditures originally authorized under the provisions of
House Bill Section 1020.035, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.094, an Act of the 90th General
Assembly First Regular Session
From Lottery Proceeds Fund. \$864,351

*Said section is vetoed in its entirety.

BOB HOLDEN, Governor

***SECTION 16.040.** — To Missouri Western State University
For classroom renovations in six facilities
Representing expenditures originally authorized under the provisions of
House Bill Section 18.035, an Act of the 90th General Assembly,
First Regular Session
From Lottery Proceeds Fund. \$370,508

*By \$121,382 from \$370,508 to \$249,126 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.042.** — To Truman State University
For design, renovation, construction, and improvements at
Ophelia Parish
Representing expenditures originally authorized under the provisions of
House Bill Section 18.090, an Act of the 89th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 15.100, an Act of the 90th General
Assembly, First Regular Session
From Lottery Proceeds Fund. \$7,546,141

*By \$2,162,374 from \$7,546,141 to \$5,383,767 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.044.** — To Truman State University
For planning and design of Science Hall
Representing expenditures originally authorized under the provisions of
House Bill Section 1020.050, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.102, an Act of the 90th General
Assembly, First Regular Session
From General Revenue Fund. \$1,184,972

*By \$476,260 from \$1,184,972 to \$708,712 in total from General Revenue Fund.

BOB HOLDEN, Governor

SECTION 16.046. — To Truman State University

For design, renovation, and construction of Science Hall

Representing expenditures originally authorized under the provisions of

House Bill Section 18.040, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$20,504,753

***SECTION 16.048.** — To Northwest Missouri State UniversityFor planning, design, renovation, and improvements at the Garret-Strong
buildingRepresenting expenditures originally authorized under the provisions of
House Bill Section 1020.040, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.104, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$8,358,210

*By \$3,110,756 from \$8,358,210 to \$5,247,454 in total from General Revenue Fund.

BOB HOLDEN, Governor

SECTION 16.050. — To Northwest Missouri State University

For planning and design of renovations to the fine arts building

Representing expenditures originally authorized under the provisions of
House Bill Section 18.062, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$961,692

***SECTION 16.052.** — To Southeast Missouri State UniversityFor planning, design, and construction of a Technical Education and
Industrial Technology buildingRepresenting expenditures originally authorized under the provisions of
House Bill Section 1020.045, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.110, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$2,326,153

*Said section is vetoed in its entirety.

BOB HOLDEN, Governor

SECTION 16.054. — To Southeast Missouri State UniversityFor planning, design, renovation, and construction for a school of visual
and performing arts. Local matching funds must be provided on a
50/50 state/local match rate in order to be eligible for state fundsRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.064, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$1,847,098

From Lottery Proceeds Fund 2,752,902Total. \$4,600,000***SECTION 16.056.** — To Southwest Missouri State University

For complete design and construction of a new general
classroom building

Representing expenditures originally authorized under the provisions of
House Bill Section 1023.270, an Act of the 87th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 16.002, an Act of the 90th General
Assembly, First Regular Session

From Fourth State Building Fund. \$19,857

*By \$2 from \$19,857 to \$19,855 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.058.** — To Southwest Missouri State University

For the West Plains campus

For complete design and construction of a new general
classroom building

Representing expenditures originally authorized under the provisions of
House Bill Section 18.081, an Act of the 88th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.120, an Act of the 90th General
Assembly, First Regular Session

From Lottery Proceeds Fund. \$145,402

*By \$1 from \$145,402 to \$145,401 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.060.** — To Southwest Missouri State University

For renovations, construction, and improvements at Karls Hall

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.080, an Act of the 88th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.116, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$47,647

*By \$3,397 from \$47,647 to \$44,250 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.062.** — To Southwest Missouri State University

For the purchase of equipment for the West Plains campus

Representing expenditures originally authorized under the provisions of
House Bill Section 18.100, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.112, an Act of the 90th General
Assembly, First Regular Session

From Lottery Proceeds Fund. \$10,040

*By \$2,821 from \$10,040 to \$7,219 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.064.** — To Southwest Missouri State University

For design, renovation, construction, and improvements at

Meyer Library

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.055, an Act of the 89th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 15.122, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$9,869,818

*By \$4,766,298 from \$9,869,818 to \$5,103,520 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.066.** — To Southwest Missouri State University

For tunnel repairs and related items

Representing expenditures originally authorized under the provisions of
House Bill Section 18.045, an Act of the 90th General Assembly,
First Regular Session

From Lottery Proceeds Fund. \$5,085,658

*By \$11,458 from \$5,085,658 to \$5,074,200 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.068.** — To University of Missouri

For construction of the Communication Arts Building on the St. Louis
campus

Representing expenditures originally authorized under the provisions of
House Bill Section 18.125, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.152, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$4,436,325

From Lottery Proceeds Fund 433,000

From Gaming Proceeds for Education Fund. 1,246,583

Total. \$6,115,908

*Said section is vetoed in its entirety.

BOB HOLDEN, Governor

***SECTION 16.070.** — To University of Missouri

For the construction of the Communication Arts Building on the St. Louis
campus

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.085, an Act of the 89th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 15.150, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$22,854,526

*By \$1,545,255 from \$22,854,526 to \$21,309,271 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.072.** — To University of Missouri

For design and construction of the Business & Public Administration
Building on the Columbia campus
Representing expenditures originally authorized under the provisions of
House Bill Section 18.050, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$11,127,000

*By \$8,146,916 from \$11,127,000 to \$2,980,084 in total from General Revenue Fund.
BOB HOLDEN, Governor

SECTION 16.074. — To University of Missouri
For design, renovation, and construction to the McKee Gymnasium
Building on the Columbia campus
Representing expenditures originally authorized under the provisions of
House Bill Section 18.056, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$23,295

***SECTION 16.076.** — To University of Missouri
For design, construction, and improvements for a dairy grazing research
facility at the Southwest Missouri Research Center, Mt. Vernon
Representing expenditures originally authorized under the provisions of
House Bill Section 18.057, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$72,202

*By \$23,654 from \$72,202 to \$48,548 in total from General Revenue Fund.
BOB HOLDEN, Governor

***SECTION 16.078.** — To University of Missouri
For planning, design, renovation, and improvements at the Dental School
building on the Kansas City campus
Representing expenditures originally authorized under the provisions of
House Bill Section 1020.075, an Act of the 89th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 15.140, an Act of the 90th General
Assembly, First Regular Session
From General Revenue Fund. \$7,420,830

*By \$1,909,712 from \$7,420,830 to \$5,511,118 in total from General Revenue Fund.
BOB HOLDEN, Governor

***SECTION 16.080.** — To University of Missouri
For renovation of the lab animal/chemical storage building at the Kansas
City campus
Representing expenditures originally authorized under the provisions of
House Bill Section 18.055, an Act of the 90th General Assembly,
First Regular Session
From Lottery Proceeds Fund. \$1,827,415

*By \$1,192,757 from \$1,827,415 to \$634,658 in total from Lottery Proceeds Fund.
BOB HOLDEN, Governor

***SECTION 16.082.** — To University of Missouri

For design, renovation, and construction of the Butler-Carlton Building on
the Rolla campus

Representing expenditures originally authorized under the provisions of
House Bill Section 18.060, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.	\$2,538,996
From Lottery Proceeds Fund	<u>4,866,514</u>
Total.	\$7,405,510

*By \$2,072,043 from \$2,538,996 to \$466,953 in total from General Revenue Fund.

From \$7,405,510 to \$5,333,467 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.084.** — To University of Missouri

For planning, design, and renovation of Benton-Stadler Halls on the St.
Louis campus

Representing expenditures originally authorized under the provisions of
House Bill Section 18.067, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.	\$386,530
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*By \$155,311 from \$386,530 to \$231,219 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.086.** — To the Metropolitan Community Colleges

For the planning, design, and construction of a Western Missouri Public
Safety Training Institute at Blue River Community College

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.091, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.052, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund.	\$2,321,243
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*Said section is vetoed in its entirety.

BOB HOLDEN, Governor

***SECTION 16.088.** — To the Department of Higher Education

For the design, renovation, construction, and improvements of community
colleges. Pursuant to Section 163.191, RSMo, local matching funds
must be provided on a 50/50 state/local match rate in order to be
eligible for state funds

For the Kansas City Regional Business and Technology Center at Metropolitan Community Colleges in Kansas City.. . . .	\$4,283,255
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For the Center for Allied Health Technologies at State Fair Community College in Sedalia	<u>478,317</u>
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Representing expenditures originally authorized under the provisions of
House Bill Section 18.068, an Act of the 90th General Assembly,
First Regular Session

From Lottery Proceeds Fund.	\$4,761,572
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*For the Kansas City Regional Business and Technology Center at Metropolitan Community College in Kansas City
By \$3,210,255 from \$4,283,255 to \$1,073,000 in total from Lottery Proceeds Fund.

For the Center for Allied Health Technologies at State Fair Community College in Sedalia.
By \$478,317 from \$478,317 to \$0 in total from Lottery Proceeds Fund.
From \$4,761,572 to \$1,073,000 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.090.** — To Crowder College

For the planning and design of a driving course, including a skid pad, for
the Missouri Decision Driving Center at the Crowder College
Campus

Representing expenditures originally authorized under the provisions of
House Bill Section 18.069, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$48,002

*By \$1,474 from \$48,002 to \$46,528 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.092.** — To the Department of Higher Education

For Moberly Area Community College

For design, renovation, construction, and improvements of the Graphic
Arts Technology Center in Moberly. Local and or donated funds
must be provided to equip the facility to be eligible for state funds.

Representing expenditures originally authorized under the provisions of
House Bill Section 18.070, an Act of the 90th General Assembly,
First Regular Session

From Lottery Proceeds Fund. \$705,837

*By \$120,228 from \$705,837 to \$585,609 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.094.** — To the Department of Higher Education

For planning, design, construction, renovation, and improvements for the
community colleges

Representing expenditures originally authorized under the provisions of
House Bill Section 1120.010, an Act of the 90th General Assembly,
Second Regular Session

From Lottery Proceeds Fund. \$4,854,656

*By \$1,961,767 from \$4,854,656 to \$2,892,889 in total from Lottery Proceeds Fund.

BOB HOLDEN, Governor

***SECTION 16.096.** — To the Office of Administration

For the Division of Design and Construction

For emergency requirements for facilities statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 17.020, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$108,772

From Office of Administration Facilities Revolving Administrative Trust Fund.	50,000
From Facilities Maintenance Reserve Fund	<u>395,054</u>
Total.	\$553,826

*By \$55,471 from \$108,772 to \$53,301 in total from General Revenue Fund.

By \$72,046 from \$395,054 to \$323,008 in total from Facilities Maintenance Reserve Fund.

From \$553,826 to \$426,309 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.098.** — To the Office of Administration

For the Division of Design and Construction

For statewide assessment, abatement, removal, remediation, and management of hazardous materials and pollutants

Representing expenditures originally authorized under the provisions of
House Bill Section 17.025, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.	\$150,971
From Facilities Maintenance Reserve Fund	<u>455,549</u>
Total.	\$606,520

*By \$77,691 from \$150,971 to \$73,280 in total from General Revenue Fund.

By \$69,644 from \$455,549 to \$385,905 in total from Facilities Maintenance Reserve Fund.

From \$606,520 to \$459,185 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.100.** — To the Office of Administration

For the Division of Design and Construction

For unprogrammed requirements for facilities statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 17.030, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.	\$165,436
From Facilities Maintenance Reserve Fund	<u>459,491</u>
From Office of Administration Facilities Revolving Administrative Trust Fund.	365,424
From Unemployment Compensation Administration Fund	<u>200,000</u>
From Workers' Compensation Fund.	<u>100,000</u>
Total.	\$1,290,351

*By \$98,420 from \$165,436 to \$67,016 in total from General Revenue Fund.

By \$77,889 from \$459,491 to \$381,602 in total from Facilities Maintenance Reserve Fund.

By \$34,361 from \$365,424 to \$331,063 in total from Office of Administration Facilities
Revolving Administrative Trust Fund.

From \$1,290,351 to \$1,079,681 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.102.** — To the Office of Administration

For the Division of Design and Construction

For statewide roofing management system

Representing expenditures originally authorized under the provisions of
House Bill Section 17.035, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.....	\$500,000
From Facilities Maintenance Reserve Fund	<u>494,666</u>
Total.	<u>\$994,666</u>

*By \$12,681 from \$500,000 to \$487,319 in total from General Revenue Fund.

By \$14,516 from \$494,666 to \$480,150 in total from Facilities Maintenance Reserve Fund.

From \$994,666 to \$967,469 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.104.** — To the Office of Administration

For the Division of Design and Construction

For the statewide pavement management system

Representing expenditures originally authorized under the provisions of
House Bill Section 17.040, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.....	\$149,143
From Facilities Maintenance Reserve Fund	<u>148,661</u>
Total.	<u>\$297,804</u>

*By \$3,713 from \$149,143 to \$145,430 in total from General Revenue Fund.

By \$35,923 from \$148,661 to \$112,738 in total from Facilities Maintenance Reserve Fund.

From \$297,804 to \$258,168 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.106.** — To the Office of Administration

For the Division of Design and Construction

For maintenance, repairs, replacements, and improvements at facilities
statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 17.045, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund.....	\$4,782,145
From Office of Administration Revolving Administrative Trust Fund.	410,669
From Unemployment Compensation Administration Fund	100,000
From Workers' Compensation Fund.....	200,000
From Veterans' Commission Capital Improvement Trust Fund	479,278
From Bingo Proceeds for Education Fund.	<u>448,178</u>
Total.	<u>\$6,420,270</u>

*By \$294,974 from \$4,782,145 to \$4,487,171 in total from Facilities Maintenance Reserve Fund.

By \$14,783 from \$410,669 to \$395,886 in total from Office of Administration Revolving Administrative Trust Fund.

By \$27,558 from \$479,278 to \$451,720 in total from Veterans' Commission Capital Improvement Trust Fund.

By \$6,470 from \$448,178 to \$441,708 in total from Bingo Proceeds for Education Fund.

From \$6,420,270 to \$6,076,485 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.108.** — To the Office of Administration

To the Division of Design and Construction

For the purpose of design, construction and land acquisition for an office
building in Cole CountyRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.104, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund \$2,533,223

*By \$112,606 from \$2,533,223 to \$2,420,617 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.110.** — To the Office of Administration

For the various departments of state government

For planning, design, modifications, alterations, renovations, construction,
and improvements necessary to comply with the federal Americans
with Disabilities Act at facilities statewideRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.170, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.188, an Act of the 90th General
Assembly, First Regular Session

From Americans with Disabilities Act Compliance Fund. \$272,487

*By \$50,250 from \$272,487 to \$222,237 in total from Americans with Disabilities Act
Compliance Fund.

BOB HOLDEN, Governor

***SECTION 16.112.** — To the Office of Administration

For the Division of Facilities Management

For design, renovation, construction, and improvements at facilities in the
Capitol ComplexRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.105, an Act of the 88th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.206, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$80,935

From Office of Administration Revolving Administrative Trust Fund. 670,581

Total. \$751,516

*By \$2,531 from \$80,935 to \$78,404 in total from General Revenue Fund.

By \$636,831 from \$670,581 to \$33,750 in total from Office of Administration Revolving
Administrative Trust Fund.

From \$751,516 to \$112,154 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.114.** — To the Office of Administration

For the Division of Facilities Management

For maintenance, repairs, replacements, and improvements of facilities in
the Capitol Complex operated by the Office of Administration

Representing expenditures originally authorized under the provisions of
House Bill Section 17.060, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 16.014, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$635,967

*By \$162,597 from \$635,967 to \$473,370 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.116.** — To the Office of Administration

For the Division of Facilities Management

For design, renovation, construction, acquisition of security systems, and
improvements at facilities statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 18.185, an Act of the 89th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 15.212, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$9,557

From Office of Administration Revolving Administrative

Trust Fund. 1,895,950

From Workers' Compensation Fund. 815,800

Total. \$2,721,307

*By \$9,557 from \$9,557 to \$0 in total from General Revenue Fund.

By \$79,059 from \$1,895,950 to \$1,816,891 in total from Office of Administration Revolving
Administrative Trust Fund.

From \$2,721,307 to \$2,632,691 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.118.** — To the Office of Administration

For the Division of Facilities Management

For maintenance, repairs, replacements, and improvements to facilities in
the Capitol Complex and the Wainwright, Missouri Boulevard and St.
Joseph State Office Buildings

Representing expenditures originally authorized under the provisions of
House Bill Section 17.050, an Act of the 90th General Assembly,
First Regular Session

From Office of Administration Revolving Administrative Trust

Fund. \$1,322,759

From Facilities Maintenance Reserve Fund. 122,003

Total. \$1,444,762

*By \$405,887 from \$1,322,759 to \$916,872 in total from Office of Administration Revolving
Administrative Trust Fund.

By \$9,490 from \$122,003 to \$112,513 in total from Facilities Maintenance Reserve Fund.

From \$1,444,762 to \$1,029,385 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.120.** — To the Office of Administration

For the Division of Facilities Management

For design, renovations, installations, improvements, and construction for newly elected officials, House of Representative offices, and inauguration expenses

Representing expenditures originally authorized under the provisions of House Bill Section 18.085, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund. \$358,769

*By \$63,546 from \$358,769 to \$295,223 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.122.** — To the Office of Administration

For the Division of Facilities Management

For design, renovations, improvements, and construction for the Capitol Building, Truman State Office Building, Wainwright State Office Building, and Environmental Control Center

Representing expenditures originally authorized under the provisions of House Bill Section 18.090, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund. \$1,806,985

From Office of Administration Revolving Administrative Trust

Fund. 867,012

Total. \$2,673,997

*By \$715,890 from \$1,806,985 to \$1,091,095 in total from General Revenue Fund.

By \$353,565 from \$867,012 to \$513,447 in total from Office of Administration Revolving Administrative Trust Fund.

From \$2,673,997 to \$1,604,542 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.124.** — To the Office of Administration

For the Division of Facilities Management

For design, renovations, improvements, and construction, including ADA modifications to public areas in the capitol building as proposed in the Capitol Master Plan Study and to study the expansion of legislative offices on the capitol 5th floor roof area.

Representing expenditures originally authorized under the provisions of House Bill Section 18.095, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund. \$5,940,618

*By \$718,146 from \$5,940,618 to \$5,222,472 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.126.** — To the Office of Administration

For the Division of Facilities Management

For design and land acquisition for a new State Data Center and State Print Shop

Representing expenditures originally authorized under the provisions of House Bill Section 18.100, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund. \$1,567,156

*By \$482,429 from \$1,567,156 to \$1,084,727 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.128.** — To the Office of Administration

For the Department of Agriculture

For maintenance, repairs, replacements, and improvements to the
Coliseum, Woman's Building and swine pavilion at the Missouri State
Fairgrounds

Representing expenditures originally authorized under the provisions of
House Bill Section 17.055, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.	\$274,300
From Facilities Maintenance Reserve Fund.	<u>946,667</u>
Total.	\$1,220,967

*By \$152,386 from \$274,300 to \$121,914 in total from General Revenue Fund.

By \$683,868 from \$946,667 to \$262,799 in total from Facilities Maintenance Reserve Fund.

From \$1,220,967 to \$384,713 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.130.** — To the Office of Administration

For the Department of Agriculture

For removal of the race track and construction of parking facilities,
entryways, plazas, roadways, ticket booths and multi-purpose REC
Building at the Missouri State Fair

Representing expenditures originally authorized under the provisions of
House Bill Section 18.105, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund.	\$1,645,080
From Donated Funds.	<u>50,625</u>
Total.	\$1,695,705

*By \$60,822 from \$1,645,080 to \$1,584,258 in total from General Revenue Fund.

By \$1 from \$50,625 to \$50,624 in total from Donated Funds.

From \$1,695,705 to \$1,634,882 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.132.** — To the Department of Natural Resources

For the Division of State Parks

For capital improvement expenditures of gifts, recoveries, recoupments,
and grants to the state park system for the purpose specified, not to
exceed the amount of such gift, recovery, recoupment, or grant

Representing expenditures originally authorized under the provisions of
House Bill Section 18.220, an Act of the 89th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 15.254, an Act of the 90th General
Assembly, First Regular Session

From State Park Earnings Fund.	\$53,452E
From Department of Natural Resources-Federal and Other Funds	<u>2,309,057E</u>
Total.	\$2,362,509

*By \$1 from \$53,452E to \$53,451E in total from State Park Earnings Fund.

By \$86,435 from \$2,309,057E to \$2,222,622E in total from Department of Natural Resources-Federal and Other Funds.

From \$2,362,509 to \$2,276,073 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.134.** — To the Department of Natural Resources

For the Division of State Parks

For Intermodal Surface Transportation Efficiency Act grant matching funds

Representing expenditures originally authorized under the provisions of House Bill Section 18.225, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 15.256, an Act of the 90th General Assembly, First Regular Session

From Parks Sales Tax Fund.	\$77,585
From State Park Earnings Fund.	73,892
Total.	<u>\$151,477</u>

*By \$7,941 from \$73,892 to \$65,951 in total from State Park Earnings Fund.

From \$151,477 to \$143,536 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.136.** — To the Department of Natural Resources

For the Division of State Parks

For design, renovation, construction, and improvements at historic sites and parks facilities statewide

Representing expenditures originally authorized under the provisions of House Bill Section 18.130, an Act of the 88th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 15.238, an Act of the 90th General Assembly, First Regular Session

From Parks Sales Tax Fund.	\$347,764
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*By \$98,687 from \$347,764 to \$249,077 in total from Parks Sales Tax Fund.

BOB HOLDEN, Governor

***SECTION 16.138.** — To the Department of Natural Resources

For the Division of State Parks

For design, renovation, construction, and improvements at historic sites and parks facilities statewide

Representing expenditures originally authorized under the provisions of House Bill Section 18.230, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 15.230, an Act of the 90th General Assembly, First Regular Session

From Parks Sales Tax Fund.	\$1,443,747
From State Park Earnings Fund	430,385
Total.	<u>\$1,874,132</u>

*By \$41,618 from \$1,443,747 to \$1,402,129 in total from Parks Sales Tax Fund.

By \$1,754 from \$430,385 to \$428,631 in total from State Park Earnings Fund.

From \$1,874,132 to \$1,830,760 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.140.** — To the Department of Natural Resources

For the Division of State Parks

For design, renovation, construction, and improvements at historic sites and parks facilities statewide

Representing expenditures originally authorized under the provisions of House Bill Section 18.235, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 15.258, an Act of the 90th General Assembly, First Regular Session

From Parks Sales Tax Fund.. . . . \$720,536

*By \$15,197 from \$720,536 to \$705,339 in total from Parks Sales Tax Fund.

BOB HOLDEN, Governor

***SECTION 16.142.** — To the Department of Natural Resources

For the Division of State Parks

For the design, renovation, construction, improvements, and site development at the Nathan Boone Home

Representing expenditures originally authorized under the provisions of House Bill Section 1020.140, an Act of the 89th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 15.260, an Act of the 90th General Assembly, First Regular Session

From Parks Sales Tax Fund.. . . . \$429,778

*By \$89,363 from \$429,778 to \$340,415 in total from Parks Sales Tax Fund.

BOB HOLDEN, Governor

***SECTION 16.144.** — To the Department of Natural Resources

For the Division of State Parks

For upgrade and renovation of the water and wastewater systems at various parks statewide, and land purchases

Representing expenditures originally authorized under the provisions of House Bill Section 18.210, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 15.264, an Act of the 90th General Assembly, First Regular Session

From State Parks Earnings Fund. \$759,502

*By \$532,939 from \$759,502 to \$226,563 in total from State Parks Earnings Fund.

BOB HOLDEN, Governor

***SECTION 16.146.** — To the Department of Natural Resources

For the Division of Geology and Land Survey

For design, renovation, construction, and improvements

Representing expenditures originally authorized under the provisions of House Bill Section 18.245, an Act of the 89th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 15.268, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund. \$89,819

*By \$24,899 from \$89,819 to \$64,920 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.148.** — To the Department of Natural Resources

For the Division of State Parks

For unprogrammed requirements for park facilities statewide

Representing expenditures originally authorized under the provisions of

House Bill Section 17.060, an Act of the 90th General Assembly,

First Regular Session

From Parks Sales Tax Fund. \$389,603

*By \$48,387 from \$389,603 to \$341,216 in total from Parks Sales Tax Fund.

BOB HOLDEN, Governor

***SECTION 16.150.** — To the Department of Natural Resources

For the Division of State Parks

For maintenance, repairs, replacements, and improvements at park
facilities statewide

Representing expenditures originally authorized under the provisions of

House Bill Section 17.065, an Act of the 90th General Assembly,

First Regular Session

From State Park Earnings Fund. \$580,371

*By \$128,227 from \$580,371 to \$452,144 in total from State Park Earnings Fund.

BOB HOLDEN, Governor

***SECTION 16.152.** — To the Department of Natural Resources

For the Division of State Parks

For maintenance, repairs, replacements, and improvements to pavement at
park facilities statewide

Representing expenditures originally authorized under the provisions of

House Bill Section 17.070, an Act of the 90th General Assembly,

First Regular Session

From Parks Sales Tax Fund. \$525,909

*By \$150,523 from \$525,909 to \$375,386 in total from Parks Sales Tax Fund.

BOB HOLDEN, Governor

***SECTION 16.154.** — To the Department of Natural Resources

For the Division of State Parks

For maintenance, repairs, replacements, and improvements to roads,
parking lots, and trails at parks statewide

Representing expenditures originally authorized under the provisions of

House Bill Section 17.075, an Act of the 90th General Assembly,

First Regular Session

From State Park Earnings Fund. \$313,534

*By \$52,290 from \$313,534 to \$261,244 in total from State Park Earnings Fund.

BOB HOLDEN, Governor

***SECTION 16.156.** — To the Department of Natural Resources

For the Division of State Parks

For repairs and improvements at Jefferson Landing and Hunter-Dawson

State Historic Sites and St. Joseph and Big Lake State Parks

Representing expenditures originally authorized under the provisions of

House Bill Section 17.080, an Act of the 90th General Assembly,

First Regular Session

From Parks Sales Tax Fund.. . . . \$654,119

*By \$72,195 from \$654,119 to \$581,924 in total from Parks Sales Tax Fund.

BOB HOLDEN, Governor

***SECTION 16.158.** — To the Department of Natural Resources

For the Division of State Parks

For design, renovation, construction, and improvements at Bennett Spring,

Rock Bridge, Sam A. Baker, Route 66, Washington, Thousand Hills,

Elephant Rocks, Johnson's Shut Ins, Trail of Tears, Onondaga Cave,

Lake Wappapello, Hawn, Babler, Katy Trail, Cuivre River, Mark

Twain, Robertsville, Taum Sauk Mountain, Wallace, Big Lake,

Stockton, Pomme de Terre, Lake of the Ozarks, Knob Noster,

Roaring River, Crowder, Table Rock, Castlewood, Harry S. Truman,

Graham Cave, and Pershing state parks and Scott Joplin, Jefferson

Landing, Battle of Athens, Hunter-Dawson, Felix Valle, Mastodon,

Deutschheim, Iliniwek Village, Pershing Home and Confederate

Memorial historic sites

Representing expenditures originally authorized under the provisions of

House Bill Section 18.110, an Act of the 90th General Assembly,

First Regular Session

From Parks Sales Tax Fund.. . . . \$7,906,114

From State Park Earnings Fund. 1,054,287Total. \$8,960,401

*By \$512,628 from \$7,906,114 to \$7,393,486 in total from Parks Sales Tax Fund.

By \$469,776 from \$1,054,287 to \$584,511 in total from State Park Earnings Fund.

From \$8,960,401 to \$7,977,997 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.160.** — To the Department of Natural Resources

For the Division of State Parks

For covered bridge restoration at Locust Creek pursuant to the

Transportation Enhancement Program of the Transportation Equity

Act for the 21st Century

Representing expenditures originally authorized under the provisions of

House Bill Section 18.115, an Act of the 90th General Assembly,

First Regular Session

From Parks Sales Tax Fund.. . . . \$52,000

*By \$1,572 from \$52,000 to \$50,428 in total from Parks Sales Tax Fund.

BOB HOLDEN, Governor

***SECTION 16.162.** — To the Department of Natural Resources

For the Division of State Parks
For the acquisition, restoration, development, and maintenance of exhibits
at parks and historic sites statewide
Representing expenditures originally authorized under the provisions of
House Bill Section 18.120, an Act of the 90th General Assembly,
First Regular Session
From State Parks Earnings Fund. \$653,046

*By \$21,649 from \$653,046 to \$631,397 in total from State Parks Earnings Fund.
BOB HOLDEN, Governor

***SECTION 16.164.** — To the Department of Natural Resources
For the Division of State Parks
For purchases of land and appurtenances thereon, within or adjacent to
existing state parks and/or historic sites
Representing expenditures originally authorized under the provisions of
House Bill Section 18.135, an Act of the 90th General Assembly,
First Regular Session
From Parks Sales Tax Fund. \$641,682

*By \$452,666 from \$641,682 to \$189,016 in total from Parks Sales Tax Fund.
BOB HOLDEN, Governor

***SECTION 16.166.** — To the Department of Natural Resources
For the Division of State Parks
For upgrade and renovation of the water and wastewater systems at
various parks statewide
Representing expenditures originally authorized under the provisions of
House Bill Section 18.140, an Act of the 90th General Assembly,
First Regular Session
From Parks Sales Tax Fund. \$1,051,158

*By \$287,275 from \$1,051,158 to \$763,883 in total from Parks Sales Tax Fund.
BOB HOLDEN, Governor

SECTION 16.168. — To the Department of Natural Resources
For the Division of State Parks
For the planning, design, and construction of an overlook viewing area at
Taum Sauk Mountain State Park in Iron County
Representing expenditures originally authorized under the provisions of
House Bill Section 1120.088, an Act of the 90th General Assembly,
Second Regular Session
From Parks Sales Tax Fund. \$75,000

***SECTION 16.170.** — To the Department of Economic Development
For the Division of Motor Carrier and Railroad Safety
For protection of the public against hazards existing at railroad crossings
pursuant to Division of Motor Carrier and Railroad Safety Action
under Chapter 389, Section 612, RSMo
Representing expenditures originally authorized under the provisions of
House Bill Section 18.160, an Act of the 88th General Assembly,
First Regular Session and most recently authorized under the

provisions of House Bill Section 15.272, an Act of the 90th General
Assembly, First Regular Session
From Highway Department Grade Crossing Safety Account. \$260,294E

*By \$78,261 from \$260,294E to \$182,033E in total from Highway Department Grade Crossing
Safety Account.

BOB HOLDEN, Governor

***SECTION 16.172.** — To the Department of Economic Development
For the Division of Motor Carrier and Railroad Safety
For protection of the public against hazards existing at railroad crossings
pursuant to Division of Motor Carrier and Railroad Safety Action
under Chapter 389, Section 612, RSMo
Representing expenditures originally authorized under the provisions of
House Bill Section 18.255, an Act of the 89th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 15.274, an Act of the 90th General
Assembly, First Regular Session
From Highway Department Grade Crossing Safety Account. \$1,512,986E

*By \$14,295 from \$1,512,986E to \$1,498,691E in total from Highway Department Grade
Crossing Safety Account.

BOB HOLDEN, Governor

SECTION 16.174. — To the Department of Economic Development
For the Division of Motor Carrier and Railroad Safety
For protection of the public against hazards existing at railroad crossings
pursuant to Division of Motor Carrier and Railroad Safety Action
under Chapter 389, Section 612, RSMo
Representing expenditures originally authorized under the provisions of
House Bill Section 18.155, an Act of the 90th General Assembly,
First Regular Session
From Highway Department Grade Crossing Safety Account. \$2,135,634E

SECTION 16.176. — To the Department of Economic Development
For the Division of Tourism
For the design, renovation, and construction of the Truman Memorial
Building in Independence
Representing expenditures originally authorized under the provisions of
House Bill Section 18.156, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund.. . . . \$1,520,226

***SECTION 16.178.** — To the Office of Administration
For the Division of Tourism
For additional storage space at the Joplin Information Center
Representing expenditures originally authorized under the provisions of
House Bill Section 18.165, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund.. . . . \$64,685

*By \$1,975 from \$64,685 to \$62,710 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.180.** — To the Office of Administration

For the Department of Labor and Industrial Relations

For design, renovation, construction, and improvements at St. Louis
Division of Employment Security Office for the administration of this
state's unemployment compensation law and public employment
offices, from federal Reed Bill monies subaccount, made available to
this state under Section 903 of the Social Security Act, as amended,
and other funds

Representing expenditures originally authorized under the provisions of
House Bill Section 15.053, an Act of the 91st General Assembly, First
Regular Session

From Unemployment Compensation Administration Fund.	\$372,586
From Special Employment Security Fund.	<u>2,762,846</u>
Total.	\$3,135,432

*By \$2,232 from \$372,586 to \$370,354 in total from Unemployment Compensation
Administration Fund.

From \$3,135,432 to \$3,133,200 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.182.** — To the Office of Administration

For the Department of Public Safety

For repairs, replacements, and improvements at Missouri State Highway
Patrol facilities statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 17.085, an Act of the 90th General Assembly,
First Regular Session

From Office of Administration Revolving Administrative Trust Fund.	\$871,261
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*By \$314,279 from \$871,261 to \$556,982 in total from Office of Administration Revolving
Administrative Trust Fund.

BOB HOLDEN, Governor

***SECTION 16.184.** — To the Office of Administration

For the Department of Public Safety

For maintenance, repairs, replacements, and improvements at Missouri
Veterans Homes statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 17.135, an Act of the 89th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 15.302, an Act of the 90th General
Assembly, First Regular Session

From Veterans' Commission Capital Improvement Trust Fund.	\$103,364
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*By \$7,524 from \$103,364 to \$95,840 in total from Veterans' Commission Capital Improvement
Trust Fund.

BOB HOLDEN, Governor

***SECTION 16.186.** — To the Office of Administration

For the Department of Public Safety
 For design and construction of a Veterans Home at Cameron
 Representing expenditures originally authorized under the provisions of
 House Bill Section 18.200, an Act of the 88th General Assembly,
 First Regular Session and most recently authorized under the
 provisions of House Bill Section 15.308, an Act of the 90th General
 Assembly, First Regular Session
 From Veterans' Commission Capital Improvement Trust Fund. \$6,611
 From Federal Funds 390,712E
 Total. \$397,323

*By \$690 from \$6,611 to \$5,921 in total from Veterans' Commission Capital Improvement Trust Fund.

By \$134,680 from \$390,712E to \$256,032E in total from Federal Funds.

From \$397,323 to \$261,953 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.188.** — To the Office of Administration

For the Department of Public Safety
 For design, renovation, construction, and improvements at veterans homes
 statewide
 Representing expenditures originally authorized under the provisions of
 House Bill Section 18.270, an Act of the 89th General Assembly,
 First Regular Session and most recently authorized under the
 provisions of House Bill Section 15.310, an Act of the 90th General
 Assembly, First Regular Session
 From Veterans' Commission Capital Improvement Trust Fund. \$9,940,309
 From Federal Funds 15,836,804E
 Total. \$25,777,113

*By \$108,674 from \$9,940,309 to \$9,831,635 in total from Veterans' Commission Capital Improvement Trust Fund.

By \$55,642 from \$15,836,804E to \$15,781,162E in total from Federal Funds.

From \$25,777,113 to \$25,612,797 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.190.** — To the Office of Administration

For the Department of Public Safety
 For design, renovation, construction, and improvements at veterans
 cemeteries statewide
 Representing expenditures originally authorized under the provisions of
 House Bill Section 18.275, an Act of the 89th General Assembly,
 First Regular Session and most recently authorized under the
 provisions of House Bill Section 15.312, an Act of the 90th General
 Assembly, First Regular Session
 From Veterans' Commission Capital Improvement Trust Fund 121,650
 From Federal Funds. \$177,935E
 Total. \$299,585

*By \$88,301 from \$121,650 to \$33,349 in total from Veterans' Commission Capital Improvement Trust Fund.

By \$15,356 from \$177,935E to \$162,579E in total from Federal Funds.

From \$299,585 to \$195,928 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.192.** — To the Office of Administration

For the Department of Public Safety

For repairs, replacements, and improvements at the Mexico and St. Louis
Veterans' Homes

Representing expenditures originally authorized under the provisions of
House Bill Section 17.090, an Act of the 90th General Assembly,
First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. \$970,434

*By \$677,676 from \$970,434 to \$292,758 in total from Veterans' Commission Capital
Improvement Trust Fund.

BOB HOLDEN, Governor

***SECTION 16.194.** — To the Office of Administration

For the Department of Public Safety

For construction of a 100-bed dementia unit at the St. Louis Veterans' Home

Representing expenditures originally authorized under the provisions of
House Bill Section 18.185, an Act of the 90th General Assembly,
First Regular Session

From Federal Funds. \$7,087,244E

From Veterans' Commission Capital Improvement Trust Fund. 3,460,047

Total. \$10,547,291

*By \$13,083 from \$7,087,244E to \$7,074,161E in total from Federal Funds.

By \$155,092 from \$3,460,047 to \$3,304,955 in total from Veterans' Commission Capital
Improvement Trust Fund.

From \$10,547,291 to \$10,379,116 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.196.** — To the Office of Administration

For the Missouri Veterans' Commission

For construction of a dementia wing at the St. Louis Veterans' Home, a
veterans home at Mt. Vernon, and outpatient clinics statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 15.055, an Act of the 91st General Assembly, First
Regular Session

From Veterans' Commission Capital Improvement Trust Fund. \$5,445,000

*By \$19,949 from \$5,445,000 to \$5,425,051 in total from Veterans' Commission Capital
Improvement Trust Fund.

BOB HOLDEN, Governor

***SECTION 16.198.** — To the Office of Administration

For the Department of Public Safety

For construction of outpatient clinics statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 18.190, an Act of the 90th General Assembly,
First Regular Session

From Veterans' Commission Capital Improvement Trust Fund. \$3,362,995

*By \$112,645 from \$3,362,995 to \$3,250,350 in total from Veterans' Commission Capital Improvement Trust Fund.

BOB HOLDEN, Governor

***SECTION 16.200.** — To the Office of Administration

For the Department of Public Safety

For design, renovation, and construction at veterans cemeteries in
Bloomfield and Jacksonville

Representing expenditures originally authorized under the provisions of
House Bill Section 18.195, an Act of the 90th General Assembly,
First Regular Session

From Federal Funds.	\$10,476,588E
From Veterans' Commission Capital Improvement Trust Fund.	938,993
Total.	\$11,415,581

*By \$281,946 from \$938,993 to \$657,047 in total from Veterans' Commission Capital Improvement Trust Fund.

From \$11,415,581 to \$11,133,635 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.202.** — To the Office of Administration

For the Department of Public Safety

For construction, renovations, and improvements at Veterans' Homes in
Mexico and Cape Girardeau

Representing expenditures originally authorized under the provisions of
House Bill Section 18.200, an Act of the 90th General Assembly,
First Regular Session

From Veterans' Commission Capital Improvement Trust Fund.	\$1,812,827
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*By \$133,280 from \$1,812,827 to \$1,679,547 in total from Veterans' Commission Capital Improvement Trust Fund.

BOB HOLDEN, Governor

SECTION 16.204. — To the Office of Administration

For the Department of Public Safety

For the design, construction, and improvements for a forty (40) car, lighted
parking lot at the Veterans' Home in Cape Girardeau

Representing expenditures originally authorized under the provisions of
House Bill Section 18.201, an Act of the 90th General Assembly,
First Regular Session

From Veterans' Commission Capital Improvement Trust Fund.	\$50,000
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***SECTION 16.206.** — To the Office of Administration

For the Adjutant General Missouri National Guard

For design and construction of an Organizational Maintenance Shop at
Camp Crowder

Representing expenditures originally authorized under the provisions of
House Bill Section 14.090, an Act of the 90th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.332, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund.	\$82,387
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From Federal Funds	190,909E
Total.	\$273,296

*By \$142,962 from \$190,909E to \$47,947E in total from Federal Funds.
 From \$273,296 to \$130,334 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.208.** — To the Office of Administration

For the Adjutant General - Missouri National Guard

For repairs, replacements, and improvements at armory facilities in Kansas
 City, Carthage, Clinton, Lamar, Sedalia, St. Joseph, Chillicothe,
 Neosho, Pierce City, Lexington, Springfield, Jefferson City, Lebanon,
 Hannibal, Salem, Perryville, Kirksville, Mexico, Farmington, Rolla,
 Portageville, Warrenton, West Plains, St. Clair, Kennett, and Jefferson
 Barracks

Representing expenditures originally authorized under the provisions of
 House Bill Section 17.095, an Act of the 90th General Assembly,
 First Regular Session

From Facilities Maintenance Reserve Fund.	\$6,144,226
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*By \$1,256,330 from \$6,144,226 to \$4,887,896 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

SECTION 16.210. — To the Office of Administration

For the Adjutant General - Missouri National Guard

For the federal real property operations and maintenance and minor
 construction program at non-armory facilities

Representing expenditures originally authorized under the provisions of
 House Bill Section 17.100, an Act of the 90th General Assembly,
 First Regular Session

From Federal Funds.	\$1,529,620E
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***SECTION 16.212.** — To the Office of Administration

For the State Emergency Management Agency

For repairs to the Route C tower site

Representing expenditures originally authorized under the provisions of
 House Bill Section 17.105, an Act of the 90th General Assembly,
 First Regular Session

From Facilities Maintenance Reserve Fund.	\$55,000
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*By \$41,498 from \$55,000 to \$13,502 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.214.** — To the Office of Administration

For the Adjutant General Missouri National Guard

For the federal environmental compliance program at non-armory facilities

Representing expenditures originally authorized under the provisions of
 House Bill Section 18.205, an Act of the 90th General Assembly,
 First Regular Session

From Federal Funds.	\$1,721,989E
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*By \$26,345 from \$1,721,989E to \$1,695,644E in total from Federal Funds.

BOB HOLDEN, Governor

***SECTION 16.216.** — To the Office of Administration

For the Adjutant General Missouri National Guard

For administrative support of federal projects

Representing expenditures originally authorized under the provisions of

House Bill Section 18.210, an Act of the 90th General Assembly,

First Regular Session

From General Revenue Fund. \$185,923

*By \$57,828 from \$185,923 to \$128,095 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.218.** — To the Office of Administration

For the Division of Design and Construction

For design, project management, and construction inspection of federal

projects for the Adjutant General - Missouri National Guard

Representing expenditures originally authorized under the provisions of

House Bill Section 18.215, an Act of the 90th General Assembly,

First Regular Session

From General Revenue Fund. \$194,909

*By \$22,827 from \$194,909 to \$172,082 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.220.** — To the Office of Administration

For the Adjutant General - Missouri National Guard

For design, renovation, construction, and improvements at armories in

Jackson, Sikeston, and Independence

Representing expenditures originally authorized under the provisions of

House Bill Section 18.220, an Act of the 90th General Assembly,

First Regular Session

From General Revenue Fund. \$521,478

*By \$31,718 from \$521,478 to \$489,760 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.222.** — To the Office of Administration

For the Adjutant General - Missouri National Guard

For design, and construction of a new Armory in Sedalia

Representing expenditures originally authorized under the provisions of

House Bill Section 18.225, an Act of the 90th General Assembly,

First Regular Session

From General Revenue Fund. \$405,627

From Federal Funds 3,849,865E

Total. \$4,225,492

*By \$9,375 from \$405,627 to \$396,252 in total from General Revenue Fund.

From \$4,225,492 to \$4,216,117 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.224.** — To the Office of Administration
 For the Adjutant General - Missouri National Guard
 For correction of life safety code deficiencies at armories statewide
 Representing expenditures originally authorized under the provisions of
 House Bill Section 18.230, an Act of the 90th General Assembly,
 First Regular Session
 From General Revenue Fund. \$109,434

*By \$9,004 from \$109,434 to \$100,430 in total from General Revenue Fund.
 BOB HOLDEN, Governor

***SECTION 16.226.** — To the Office of Administration
 For the Department of Corrections
 For complete design, land acquisition, and construction or procurement of
 new correctional facilities
 Representing expenditures originally authorized under the provisions of
 House Bill Section 1023.325, an Act of the 87th General Assembly,
 Second Regular Session, and most recently authorized under the
 provisions of House Bill Section 16.080, an Act of the 90th General
 Assembly, First Regular Session
 From Federal Funds. \$734,554E
 From Fourth State Building Fund. 92,472
 Total. \$827,026

*By \$51,312 from \$92,472 to \$41,160 in total from Fourth State Building Fund.
 From \$827,026 to \$775,714 in total for the section.
 BOB HOLDEN, Governor

***SECTION 16.228.** — To the Office of Administration
 For the Department of Corrections
 For design, land acquisition, renovation, and construction, purchase or
 lease/purchase payment of correctional facilities
 Representing expenditures originally authorized under the provisions of
 House Bill Section 18.230, an Act of the 88th General Assembly,
 First Regular Session, and most recently authorized under the
 provisions of House Bill Section 15.346, an Act of the 90th General
 Assembly, First Regular Session
 From General Revenue Fund. \$2,795,727
 From Federal Funds 10,231
 Total. \$2,805,958

*By \$2,267,120 from \$2,795,727 to \$528,607 in total from General Revenue Fund.
 By \$1 from \$10,231 to \$10,230 in total from Federal Funds.
 From \$2,805,958 to \$538,837 in total for the section.
 BOB HOLDEN, Governor

***SECTION 16.230.** — To the Office of Administration
 For the Department of Corrections
 For design, repair, renovation, construction, and improvement of
 correctional facilities, and levee repair
 Representing expenditures originally authorized under the provisions of
 House Bill Section 1020.150, an Act of the 88th General Assembly,

Second Regular Session, and most recently authorized under the provisions of House Bill Section 15.350, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund.....	\$3,214,186
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*By \$35,007 from \$3,214,186 to \$3,179,179 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.232.** — To the Office of Administration

For the Department of Corrections

For maintenance, repairs, replacements, and improvements at adult institutions statewide

Representing expenditures originally authorized under the provisions of House Bill Section 17.160, an Act of the 89th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 15.344, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund.....	\$1,965,150
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*By \$955,793 from \$1,965,150 to \$1,009,357 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.234.** — To the Office of Administration

For the Department of Corrections

For maintenance, repairs, replacements, and improvements at adult institutions statewide

Representing expenditures originally authorized under the provisions of House Bill Section 17.165, an Act of the 89th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 15.338, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund.....	\$1,026,696
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*By \$511,287 from \$1,026,696 to \$515,409 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.236.** — To the Office of Administration

For the Department of Corrections

For design, land acquisition, renovation, and construction of correctional facilities in or nearby the cities of Licking and Charleston, Missouri

Representing expenditures originally authorized under the provisions of House Bill Section 18.315, an Act of the 89th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 16.078, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund.....	\$14,800,000
From Federal Funds	<u>1,825,000E</u>
Total	\$16,325,000

*I hereby veto \$5,513,787 for design, land acquisition, renovation and construction of correctional facilities. Of this amount, \$500,000 is for a feasibility study of a natural gas pipeline for the Licking prison. A weak national economy is expected to depress revenue collections

below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources. The remaining \$5,013,787 vetoed is to bring the appropriated amount in line with the actual June 30, 2001 appropriation balance.

By \$5,513,787 from \$14,800,000 to \$9,286,213 in total from General Revenue Fund.
From \$16,325,000 to \$10,811,213 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.238.** — To the Office of Administration

For the Department of Corrections

For design, renovation, and improvements at facilities statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 18.320, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.352, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$2,239,799

*By \$115,127 from \$2,239,799 to \$2,124,672 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.240.** — To the Office of Administration

For the Department of Corrections

For planning, design, construction, administrative costs, and lease/-
purchase payments related to the lease/purchase replacement of
Jefferson City Correctional Center in Cole County

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.160, an Act of the 89th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 15.354, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$3,223,010

*By \$1,636,555 from \$3,223,010 to \$1,586,455 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.242.** — To the Office of Administration

For the Department of Corrections

For maintenance, repairs, replacements, and improvements to facilities at
the Central Missouri Correctional Center

Representing expenditures originally authorized under the provisions of
House Bill Section 17.110, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$770,183

*By \$60,405 from \$770,183 to \$709,778 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.244.** — To the Office of Administration

For the Department of Corrections

For maintenance, repairs, replacements, and improvements to facilities at
the Western Missouri Correctional Center

Representing expenditures originally authorized under the provisions of
House Bill Section 17.115, an Act of the 90th General Assembly,
First Regular Session
From Facilities Maintenance Reserve Fund. \$5,517,000

*By \$81,396 from \$5,517,000 to \$5,435,604 in total from Facilities Maintenance Reserve Fund.
BOB HOLDEN, Governor

***SECTION 16.246.** — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Farmington Correctional Center
Representing expenditures originally authorized under the provisions of
House Bill Section 17.120, an Act of the 90th General Assembly,
First Regular Session
From Facilities Maintenance Reserve Fund. \$2,428,454

*By \$409,894 from \$2,428,454 to \$2,018,560 in total from Facilities Maintenance Reserve Fund.
BOB HOLDEN, Governor

***SECTION 16.248.** — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Moberly Correctional Center
Representing expenditures originally authorized under the provisions of
House Bill Section 17.125, an Act of the 90th General Assembly,
First Regular Session
From Facilities Maintenance Reserve Fund. \$635,343

*By \$95,264 from \$635,343 to \$540,079 in total from Facilities Maintenance Reserve Fund.
BOB HOLDEN, Governor

SECTION 16.250. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Western Reception, Diagnostic and Correctional Center in St.
Joseph
Representing expenditures originally authorized under the provisions of
House Bill Section 17.130, an Act of the 90th General Assembly,
First Regular Session
From Facilities Maintenance Reserve Fund. \$210,165

***SECTION 16.252.** — To Office of Administration
For the Department of Corrections
For design, installation, construction, and improvements for fuel tank
remediation at adult correctional centers statewide
Representing expenditures originally authorized under the provisions of
House Bill Section 18.240, an Act of the 90th General Assembly,
First Regular Session
From Fourth State Building Fund. \$1,617,491

*By \$75,606 from \$1,617,491 to \$1,541,885 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.254.** — To the Office of Administration

For the Department of Corrections

For design, installation, and construction of fire and life-safety improvements at adult correctional centers and correctional enterprise facilities

Representing expenditures originally authorized under the provisions of
House Bill Section 18.245, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$565,862

From Fourth State Building Fund. 3,621,134

Total. \$4,186,996

*By \$79,682 from \$3,621,134 to \$3,541,452 in total from Fourth State Building Fund.

From \$4,186,996 to \$4,107,314 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.256.** — To the Office of Administration

For the Department of Corrections

For design, renovation, and construction at the Tipton Treatment Center

Representing expenditures originally authorized under the provisions of
House Bill Section 18.250, an Act of the 90th General Assembly,
First Regular Session

From Fourth State Building Fund. \$1,265,492

*By \$908,130 from \$1,265,492 to \$357,362 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.258.** — To the Office of Administration

For the Department of Corrections

For design and installation of emergency generators at correction facilities
statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 18.255, an Act of the 90th General Assembly,
First Regular Session

From Fourth State Building Fund. \$1,213,384

*By \$1,072 from \$1,213,384 to \$1,212,312 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.260.** — To the Office of Administration

For the Department of Corrections

For design, construction, renovations, and improvements to guard houses
at the Crossroads Correctional Center

Representing expenditures originally authorized under the provisions of
House Bill Section 18.260, an Act of the 90th General Assembly,
First Regular Session

From Fourth State Building Fund. \$225,901

*By \$8,288 from \$225,901 to \$217,613 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

SECTION 16.262. — To the Office of Administration

For the Department of Corrections

For design and construction of a sallyport at the main entrance of the
Ozark Correctional CenterRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.265, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$321,084

From Fourth State Building Fund. 45,100

Total. \$366,184

***SECTION 16.264.** — To the Office of Administration

For the Department of Corrections

For design and construction of a sallyport at the main entrance of the
Potosi Correctional CenterRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.270, an Act of the 90th General Assembly,
First Regular Session

From Fourth State Building Fund. \$390,058

*By \$6,350 from \$390,058 to \$383,708 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.266.** — To the Office of Administration

For the Department of Corrections

For design and construction of a perimeter security system for sexual
predator housing at the Southeast Missouri Mental Health Center and
construction of a water tower and well at the Farmington Correctional
CenterRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.275, an Act of the 90th General Assembly,
First Regular Session

From Fourth State Building Fund. \$2,647,694

*By \$532,759 from \$2,647,694 to \$2,114,935 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.268.** — To the Office of Administration

For the Department of Corrections

For construction of the Eastern Reception, Diagnostic and Correctional
Center at Bonne TerreRepresenting expenditures originally authorized under the provisions of
House Bill Section 15.060, an Act of the 91st General Assembly, First
Regular Session

From Fourth State Building Fund. \$2,512,953

*By \$2,136,917 from \$2,512,953 to \$376,036 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.270.** — To the Office of Administration

For modifications and improvements to the sewage treatment system at
 Crossroads Correctional Center
 Representing expenditures originally authorized under the provisions of
 House Bill Section 15.065, an Act of the 91st General Assembly, First
 Regular Session
 From General Revenue Fund. \$1,660,248

*By \$3,352 from \$1,660,248 to \$1,656,896 in total from General Revenue Fund.
 BOB HOLDEN, Governor

***SECTION 16.272.** — To the Office of Administration
 For the Department of Mental Health
 For maintenance, repairs, replacements, and improvements at department
 facilities statewide
 Representing expenditures originally authorized under the provisions of
 House Bill Section 17.175, an Act of the 89th General Assembly,
 First Regular Session, and most recently authorized under the
 provisions of House Bill Section 15.358, an Act of the 90th General
 Assembly, First Regular Session
 From General Revenue Fund. \$566,894

*By \$17,089 from \$566,894 to \$549,805 in total from General Revenue Fund.
 BOB HOLDEN, Governor

***SECTION 16.274.** — To the Office of Administration
 For the Department of Mental Health
 For design, renovation, construction, and improvements at St. Louis State
 Hospital Main Building
 Representing expenditures originally authorized under the provisions of
 House Bill Section 18.330, an Act of the 89th General Assembly,
 First Regular Session, and most recently authorized under the
 provisions of House Bill Section 15.364, an Act of the 90th General
 Assembly, First Regular Session
 From General Revenue Reimbursements Fund. \$141,218

*By \$133,076 from \$141,218 to \$8,142 in total from General Revenue Reimbursements Fund.
 BOB HOLDEN, Governor

***SECTION 16.276.** — To the Office of Administration
 For the Department of Mental Health
 For design and planning of mental health facilities in Kansas City
 From General Revenue Reimbursements Fund. \$341,971

For design, land acquisition, renovation, construction, and improvements
 for a new mental health center in Kansas City. No funds may be
 expended for construction of a new center until a proposal has been
 received and reviewed by the Mental Health Commission and the
 Senate Appropriations Committee Chair and the House Budget
 Committee Chair
 From General Revenue Reimbursements Fund 16,937,957

Representing expenditures originally authorized under the provisions of
House Bill Section 18.340, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 15.366, an Act of the 90th General
Assembly, First Regular Session

Total. \$17,279,928

*For design and planning of mental health facilities in Kansas City.

By \$131,702 from \$341,971 to \$210,269 in total from General Revenue Reimbursements Fund.

For design, land acquisition, renovation, construction, and improvements for a new mental health
center in Kansas City.

By \$449,001 from \$16,937,957 to \$16,488,956 in total from General Revenue Reimbursements
Fund.

From \$17,279,928 to \$16,699,225 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.278.** — To the Office of Administration

For the Department of Mental Health

For electrical and data/voice repairs, replacements, and improvements at
the central office in Jefferson City

Representing expenditures originally authorized under the provisions of
House Bill Section 17.140, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$484,452

*By \$261,762 from \$484,452 to \$222,690 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.280.** — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements at the
Northwestern Missouri Psychiatric Center

Representing expenditures originally authorized under the provisions of
House Bill Section 17.145, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$664,695

*By \$120,347 from \$664,695 to \$544,348 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.282.** — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements at the St. Louis
Psychiatric Rehabilitation Center

Representing expenditures originally authorized under the provisions of
House Bill Section 17.150, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$158,192

*By \$126,451 from \$158,192 to \$31,741 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.284.** — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements at the Western
Missouri Mental Health CenterRepresenting expenditures originally authorized under the provisions of
House Bill Section 17.155, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$181,763

*By \$81,375 from \$181,763 to \$100,388 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.286.** — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements at the Fulton
State HospitalRepresenting expenditures originally authorized under the provisions of
House Bill Section 17.160, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$4,092,615

*By \$1,388,815 from \$4,092,615 to \$2,703,800 in total from Facilities Maintenance Reserve
Fund.

BOB HOLDEN, Governor

***SECTION 16.288.** — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements at the Marshall
Habilitation CenterRepresenting expenditures originally authorized under the provisions of
House Bill Section 17.165, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$901,144

*By \$19,786 from \$901,144 to \$881,358 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.290.** — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements at the
Springfield, Joplin, and Kirksville Regional CentersRepresenting expenditures originally authorized under the provisions of
House Bill Section 17.170, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$168,492

*By \$3,054 from \$168,492 to \$165,438 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.292.** — To the Office of AdministrationFor the Department of Mental Health

For maintenance, repairs, replacements, and improvements at Higginsville
Habilitation Center
Representing expenditures originally authorized under the provisions of
House Bill Section 17.175, an Act of the 90th General Assembly,
First Regular Session
From Facilities Maintenance Reserve Fund. \$1,105,082

*By \$358,962 from \$1,105,082 to \$746,120 in total from Facilities Maintenance Reserve Fund.
BOB HOLDEN, Governor

***SECTION 16.294.** — To the Office of Administration
For the Department of Mental Health
For maintenance, repairs, replacements, and improvements at the
Bellefontaine Habilitation Center
Representing expenditures originally authorized under the provisions of
House Bill Section 17.180, an Act of the 90th General Assembly,
First Regular Session
From Facilities Maintenance Reserve Fund. \$888,715

*By \$247,116 from \$888,715 to \$641,599 in total from Facilities Maintenance Reserve Fund.
BOB HOLDEN, Governor

***SECTION 16.296.** — To the Office of Administration
For the Department of Mental Health
For design, construction, renovation, and improvements for heat utility
distribution at the Bellefontaine Habilitation Center
Representing expenditures originally authorized under the provisions of
House Bill Section 18.290, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$291,881

*By \$73,629 from \$291,881 to \$218,252 in total from General Revenue Fund.
BOB HOLDEN, Governor

***SECTION 16.298.** — To the Office of Administration
For the Department of Mental Health
For maintenance, repairs, replacements, and improvements at the Nevada
Habilitation Center
Representing expenditures originally authorized under the provisions of
House Bill Section 17.185, an Act of the 90th General Assembly,
First Regular Session
From Facilities Maintenance Reserve Fund. \$406,010

*By \$172,549 from \$406,010 to \$233,461 in total from Facilities Maintenance Reserve Fund.
BOB HOLDEN, Governor

***SECTION 16.300.** — To the Office of Administration
For the Department of Mental Health
For design, construction, demolition, renovation, and improvements for the
sexual predator program at Southeast Missouri Mental Health Center

Representing expenditures originally authorized under the provisions of
House Bill Section 18.280, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$8,793,775

*By \$99,744 from \$8,793,775 to \$8,694,031 in total from General Revenue Fund.
BOB HOLDEN, Governor

***SECTION 16.302.** — To the Office of Administration
For the Department of Mental Health
For design, construction, renovations, and improvements for the Biggs
Building at Fulton State Hospital
Representing expenditures originally authorized under the provisions of
House Bill Section 18.285, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$907,516

*By \$14,906 from \$907,516 to \$892,610 in total from General Revenue Fund.
BOB HOLDEN, Governor

***SECTION 16.304.** — To the Office of Administration
For the Department of Mental Health
For design, construction, demolition, and improvements at the Marshall
Habilitation Center
Representing expenditures originally authorized under the provisions of
House Bill Section 18.295, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$652,046

*By \$497,109 from \$652,046 to \$154,937 in total from General Revenue Fund.
BOB HOLDEN, Governor

***SECTION 16.306.** — To the Office of Administration
For the Department of Mental Health
For planning and design of a new medical facility at Marshall
Representing expenditures originally authorized under the provisions of
House Bill Section 18.298, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund. \$1,293,663

*By \$215,071 from \$1,293,663 to \$1,078,592 in total from General Revenue Fund.
BOB HOLDEN, Governor

***SECTION 16.308.** — To the Office of Administration
For the Department of Mental Health
For design, construction, renovations, and improvements for an automo-
tive technology building at the Northwest Missouri Psychiatric
Rehabilitation Center
Representing expenditures originally authorized under the provisions of
House Bill Section 18.297, an Act of the 90th General Assembly,
First Regular Session
From Mental Health Trust Fund. \$276,661

*By \$55,177 from \$276,661 to \$221,484 in total from Mental Health Trust Fund.

BOB HOLDEN, Governor

***SECTION 16.310.** — To the Office of Administration

For the Department of Social Services

For complete land acquisition, design, and construction of Division of
Youth Services facilities

Representing expenditures originally authorized under the provisions of
House Bill Section 1023.350, an Act of the 87th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 16.082, an Act of the 90th General
Assembly, First Regular Session

From Fourth State Building Fund. \$4,243,676

*By \$58,540 from \$4,243,676 to \$4,185,136 in total from Fourth State Building Fund.

BOB HOLDEN, Governor

***SECTION 16.312.** — To the Office of Administration

For the Department of Social Services

For design, renovation, construction, and improvements at youth services
facilities statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 18.355, an Act of the 89th General Assembly,
First Regular Session, and most recently authorized under the
provisions of House Bill Section 16.084, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$519,559

From Fourth State Building Fund. 822,193

From Department of Social Services Educational Improvement

Fund. 26

Total. \$1,341,778

*By \$223,001 from \$519,559 to \$296,558 in total from General Revenue Fund.

By \$15,000 from \$822,193 to \$807,193 in total from Fourth State Building Fund.

By \$1 from \$26 to \$25 in total from Department of Social Services Educational Improvement
Fund.

From \$1,341,778 to \$1,103,776 in total for the section.

BOB HOLDEN, Governor

SECTION 16.314. — To the Office of Administration

For the Department of Social Services

For design, renovation, construction, and improvements at youth services
facilities statewide

Representing expenditures originally authorized under the provisions of
House Bill Section 18.310, an Act of the 90th General Assembly,
First Regular Session

From Department of Social Services Educational Improvement

Fund. \$500,000

***SECTION 16.316.** — To the Office of Administration

For the Department of Social Services

For design, land acquisition, renovation, construction, and improvements
of facilities

Representing expenditures originally authorized under the provisions of
House Bill Section 1014.155, an Act of the 88th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.372, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$1,050,170

*By \$1,642 from \$1,050,170 to \$1,048,528 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.318.** — To the Department of Social Services

For the Division of Youth Services

For the planning, design, construction, and improvements of a wastewater
treatment facility at Delmina Woods

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.170, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 15.376, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund. \$94,899

*By \$2,478 from \$94,899 to \$92,421 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.320.** — To the Office of Administration

For the Department of Social Services

For maintenance, repairs, replacements, and improvements at Missouri
Hills, W. E. Sears, and Northwest Regional Youth Centers

Representing expenditures originally authorized under the provisions of
House Bill Section 17.190, an Act of the 90th General Assembly,
First Regular Session

From Facilities Maintenance Reserve Fund. \$276,597

*By \$14,351 from \$276,597 to \$262,246 in total from Facilities Maintenance Reserve Fund.

BOB HOLDEN, Governor

***SECTION 16.322.** — To the Office of Administration

For the Department of Social Services

For design, construction, renovation, and improvements at Missouri Hills
and Camp Avery Youth Centers

Representing expenditures originally authorized under the provisions of
House Bill Section 18.305, an Act of the 90th General Assembly,
First Regular Session

From Department of Social Services Educational Improvement
Fund. \$508,727

*By \$141,158 from \$508,727 to \$367,569 in total from Department of Social Services
Educational Improvement Fund.

BOB HOLDEN, Governor

***SECTION 16.324.** — To the Office of Administration

For the Department of Social Services

For design, renovation, construction, and improvements at Watkins Mill
and the Northwest Regional Youth CentersRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.315, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$540,498

*By \$27,009 from \$540,498 to \$513,489 in total from General Revenue Fund.

BOB HOLDEN, Governor

***SECTION 16.326.** — To the Office of Administration

For the Department of Social Services

For design, renovations, and installations and life safety code compliance
at youth services facilities statewideRepresenting expenditures originally authorized under the provisions of
House Bill Section 18.320, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$521,669

From Department of Social Services Educational Improvement

Fund. 6,050

Total. \$527,719

*By \$251,201 from \$521,669 to \$270,468 in total from General Revenue Fund.

By \$4,160 from \$6,050 to \$1,890 in total from Department of Social Services Educational
Improvement Fund.

From \$527,719 to \$272,358 in total for the section.

BOB HOLDEN, Governor

***SECTION 16.328.** — To the Office of Administration

For the Department of Social Services

For exercising the lease/purchase option on the Kansas City group home

Representing expenditures originally authorized under the provisions of
House Bill Section 18.325, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$355,178

*Said section is vetoed in its entirety.

BOB HOLDEN, Governor

SECTION 16.330. — There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, One Million, Three
Hundred Fifty Thousand, Nine Hundred Forty Seven Dollars
(\$1,350,947) to the Office of Administration Revolving Administra-
tive Trust FundRepresenting expenditures originally authorized under the provisions of
House Bill Section 17.205, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$1,350,947

SECTION 16.332. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, One Million, One Hundred Fifty Four Thousand, Seven Hundred Seventy Six Dollars (\$1,154,776) to the Office of Administration Revolving Administrative Trust Fund

Representing expenditures originally authorized under the provisions of House Bill Section 18.335, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund. \$1,154,776

SECTION 16.334. — There is transferred out of the State Treasury, chargeable to the funds shown below, the following amounts to the General Revenue Fund

Representing expenditures originally authorized under the provisions of House Bill Section 1020.180, an Act of the 89th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 15.178, an Act of the 90th General Assembly, First Regular Session

From General Revenue Reimbursements Fund. \$5,000,000

Mental Health Housing Trust Fund. 494,000

Total. \$5,494,000

SECTION 16.336. — To the Board of Public Buildings

For the purpose of construction of a replacement Western Missouri Mental Health Center, construction of a replacement Jefferson City Correctional Center, construction of an office building in Cole County, buyout of existing Department of Mental Health lease-purchase facilities, and exercise the purchase option for certain leased buildings

Representing expenditures originally authorized under the provisions of House Bill Section 18.103, an Act of the 90th General Assembly, First Regular Session

From Proceeds of Revenue Bonds. \$175,090,000

SECTION 16.338. — To the Department of Elementary and Secondary Education

For the design, renovation, construction, and improvements of vocational technical schools. Local matching funds must be provided on a 50/50 state/local match rate in order to be eligible for state funds

For vocational education facilities in Springfield. \$2,500,000

For vocational education facilities in Rolla 1,500,000

For vocational education facilities in Poplar Bluff. 750,000

For vocational education facilities in Cape Girardeau 1,000,000

For vocational education facilities in West Plains 451,000

For vocational education facilities in Clinton 332,500

For vocational education facilities in Kirksville. 225,000

For vocational education facilities in Bonne Terre. 91,000

Representing expenditures previously authorized under the provisions of House Bill Section 1120.005, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$6,849,500

SECTION 16.340. — To Mineral Area Community College
For planning, design, and renovation of an off-campus Technology Facility
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.011, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund.. . . . \$425,000

SECTION 16.342. — To Linn State Technical College
For planning, design, and construction of a Truck Technology Center and
campus infrastructure
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.015, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund.. . . . \$5,828,681

SECTION 16.344. — To Southeast Missouri State University
For planning, design, renovation, and construction for a
school of visual and performing arts. \$11,950,000
For planning, design, renovation and construction of classrooms
for Kennett Learning Center. 150,000
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.020, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund.. . . . \$12,100,000

SECTION 16.346. — To Southwest Missouri State University
For planning, design, and renovation of facilities
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.025, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund.. . . . \$7,757,428

SECTION 16.348. — To Lincoln University
For planning, design, renovation, and construction of Jason Hall and a
natatorium
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.030, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund.. . . . \$3,539,454

SECTION 16.350. — To Northwest Missouri State University
For planning, design, and renovation of the Olive DeLuce Building
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.035, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund.. . . . \$14,265,068

SECTION 16.352. — To Missouri Southern State College
For planning, design, and construction of a Health Sciences Building
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.040, an Act of the 90th General Assembly,
Second Regular Session

From General Revenue Fund. \$9,360,000

SECTION 16.354. — To Missouri Western State College

For planning, design, and construction of a Training and Development Center

Representing expenditures previously authorized under the provisions of House Bill Section 1120.045, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$1,000,000

SECTION 16.356. — To the University of Missouri

For planning, design, and construction and equipment for the Thompson Farms Cattle Research center at Spickard in Grundy County

Representing expenditures previously authorized under the provisions of House Bill Section 1120.046, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$80,000

SECTION 16.358. — To Harris-Stowe State College

For planning, design, and construction of an Early Child-hood/Parent Education Center and renovation of the existing Administration/classroom building elevator

Representing expenditures previously authorized under the provisions of House Bill Section 1120.050, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$5,150,087

SECTION 16.360. — To the University of Missouri

For planning, design, and construction of a Life Sciences Building on the Columbia Campus

Representing expenditures previously authorized under the provisions of House Bill Section 1120.055, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$29,947,000

SECTION 16.362. — To the University of Missouri

For planning, design, renovation, and construction of the McKee Gymnasium on the Columbia Campus

Representing expenditures previously authorized under the provisions of House Bill Section 1120.060, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$1,000,000

SECTION 16.364. — To the University of Missouri

For the design and construction of a teleconferencing facility at the Hundley-Whaley agricultural research farm

Representing expenditures previously authorized under the provisions of House Bill Section 1120.061, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$50,000

SECTION 16.366. — To the University of Missouri

For planning, design, renovation, and improvements for the Mechanical Engineering Building and Annex on the Rolla Campus
 Representing expenditures previously authorized under the provisions of House Bill Section 1120.065, an Act of the 90th General Assembly, Second Regular Session
 From General Revenue Fund. \$6,265,000

SECTION 16.368. — To the University of Missouri
 For planning, design, and construction of a Pharmacy and Nursing Building on the Kansas City Campus
 Representing expenditures previously authorized under the provisions of House Bill Section 1120.070, an Act of the 90th General Assembly, Second Regular Session
 From General Revenue Fund. \$30,490,400

SECTION 16.370. — To the University of Missouri
 For planning, design, and renovation of Benton-Stadler Halls on the St. Louis Campus. \$5,000,000
 For continuation of the implementation of the 1993 Master Plan on the St. Louis Campus. 1,500,000
 Representing expenditures previously authorized under the provisions of House Bill Section 1120.075, an Act of the 90th General Assembly, Second Regular Session
 From General Revenue Fund. \$6,500,000

SECTION 16.372. — To the City of St. Louis
 For the St Louis Community College at Forest Park
 For the planning, design, and construction of a parking facility at St. Louis Forest Park Community College Campus
 Representing expenditures previously authorized under the provisions of House Bill Section 1120.076, an Act of the 90th General Assembly, Second Regular Session
 From General Revenue Fund. \$360,000

***SECTION 16.374.** — To the Department of Transportation
 For port authority capital improvement project grants
 Representing expenditures previously authorized under the provisions of House Bill Section 1120.080, an Act of the 90th General Assembly, Second Regular Session
 From General Revenue Fund. \$6,099,109

*By \$125,001 from \$6,099,109 to \$5,974,108 in total from General Revenue Fund.
 BOB HOLDEN, Governor

SECTION 16.376. — To the County of Jackson
 For design, construction, restoration, and renovation of the historic Truman/Jackson County Court House in Independence. Local matching funds must be provided on a 50/50 state/local match rate in order to be eligible for state funds
 Representing expenditures previously authorized under the provisions of House Bill Section 1120.083, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$1,000,000

SECTION 16.378. — To the Office of Administration

For Public Television Stations statewide pursuant to Sections 37.205 to 37.250, RSMo

For the cost of Federal Compliance of transition to digital television

Representing expenditures previously authorized under the provisions of House Bill Section 1120.084, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$500,000

SECTION 16.380. — To the Office of Administration

For a multi-use facility on the Missouri State Fairgrounds for the Department of Agriculture and the Adjutant General-Missouri National Guard

Representing expenditures previously authorized under the provisions of House Bill Section 1120.085, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$2,700,000

SECTION 16.382. — To the Office of Administration

For the Botanical Garden Subdistrict of St. Louis City and St. Louis County

For the design, construction and renovation of the Shoenberg Administration Building at the Missouri Botanical Garden

Representing expenditures previously authorized under the provisions of House Bill Section 1120.086, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$350,000

SECTION 16.384. — To the Department of Mental Health

For planning and design of additional bed expansion at the Northwest Missouri Rehabilitation Center at St. Joseph

Representing expenditures previously authorized under the provisions of House Bill Section 1120.093, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$360,000

SECTION 16.386. — To the Department of Health

For planning and design of a new state public health laboratory

Representing expenditures previously authorized under the provisions of House Bill Section 1120.095, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund. \$2,340,910

SECTION 16.388. — To the Office of Administration

For the Department of Social Services

For design, construction, and improvements of a St. Louis youth services facility and land acquisition shall be contiguous with the real property parcel donated by the City of St. Louis and land acquisition shall be bounded by Hamilton Avenue on the east, rear of Kennerly Avenue property on the south, St. Louis Avenue on the north and parallel with the donated property to the west

Representing expenditures previously authorized under the provisions of
House Bill Section 1120.100, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund. \$370,000

SECTION 16.390. — To the Western District Court of Appeals
For replacement of carpets and other improvements to the appellate court
building in Kansas City
Representing expenditures previously authorized under the provisions of
House Bill Section 1120.103, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund. \$133,517

Approved July 12, 2001

HB 17 [SCS HB 17]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: EXPENSES, GRANTS, REFUNDS, DISTRIBUTIONS AND OTHER PURPOSES.

AN ACT to appropriate money for expenses, grants, refunds, distributions and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds designated herein.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri for the agency, program, and purpose stated, chargeable to the fund designated, for the period beginning July 1, 2001 and ending June 30, 2003 the unexpended balances as of June 30, 2001 but not to exceed the amounts stated herein, as follows:

SECTION 17.002. — To the Department of Elementary and Secondary Education
For competitive matching and non-matching grants to successful
applicants, including state board operated school programs, and for
expenses under the Incentives for School Excellence Program
pursuant to the Excellence in Education Act
Representing expenditures originally authorized under the provisions of
House Bill Section 1102.140, an Act of the 90th General Assembly,
Second Regular Session
From Lottery Proceeds Fund. \$75,000

SECTION 17.004. — To the Department of Higher Education
For the Common Library Platform

Representing expenditures originally authorized under the provisions of
House Bill Section 1103.025, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$3,401,845

SECTION 17.006. — To the University of Missouri

For the Missouri Research and Education Network (MOREnet)

All Expenditures

Representing expenditures originally authorized under the provisions of
House Bill Section 1103.150, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$6,189,640

SECTION 17.008. — To the University of Missouri

For a program of research into Alzheimer's Disease

All Expenditures

Representing expenditures originally authorized under the provisions of
House Bill Section 1103.175, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$235,877

SECTION 17.010. — To the University of Missouri

For a program of research into Alzheimer's Disease

Representing expenditures originally authorized under the provisions of
House Bill Section 3.175, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.015, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$126,847

SECTION 17.012. — To Department of Transportation

For the Transit Program

For the purpose of providing matching funds for grants received by local
governments under Section 5309, Title 49, United States Code for a
feasibility study and preliminary engineering associated with
development of commuter rail service in Missouri. No state funds are
to be expended until federal funds are received

Representing expenditures originally authorized under the provisions of
House Bill Section 1004.288, an Act of the 89th General Assembly,
Second Regular Session, and most recently authorized under the
provisions of House Bill Section 19.022, an Act of the 90th General
Assembly, First Regular Session
From General Revenue Fund. \$247,826

SECTION 17.014. — To Department of Transportation

For the Rail Program

For the purpose of funding station repairs and improvements at Missouri
Amtrak stations

Representing expenditures originally authorized under the provisions of
House Bill Section 4.285, an Act of the 89th General Assembly, First
Regular Session, and most recently authorized under the provisions of

House Bill Section 19.026, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund \$120,500

SECTION 17.016. — To Department of Transportation
For the Waterways Program
For a grant to the St. Joseph Port Authority for capital
improvement projects \$785,250
For grants for port authority capital improvement projects 152,485
Representing expenditures originally authorized under the provisions of
House Bill Section 4.305, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.025, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$937,735

SECTION 17.018. — To the Office of Administration
For all expenses associated with detailed planning, design, software and
equipment purchase, installation, and implementation of a new
financial management system
Representing expenditures originally authorized under the provisions of
House Bill Section 1020.115, an Act of the 88th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.044, an Act of the 90th General
Assembly, First Regular Session
From General Revenue Fund \$495,677

SECTION 17.020. — To the Office of Administration
For detailed planning and implementation of a new financial management
system
Representing expenditures originally authorized under the provisions of
House Bill Section 1005.010, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.048, an Act of the 90th General
Assembly, First Regular Session
From General Revenue Fund \$1,884,768

SECTION 17.022. — To the Office of Administration
For the Division of Information Services
Expense and Equipment
Representing expenditures originally authorized under the provisions of
House Bill Section 1105.030, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$3,734,086

SECTION 17.023. — To the Office of Administration
There is transferred out of the State Treasury chargeable to various funds,
such amounts as are necessary for detailed planning, design, software
and equipment purchase, installation, and implementation of a new
financial management system, to the General Revenue Fund.
Representing expenditures originally authorized under the provisions of
House Bill Section 1020.120, an Act of the 88th General Assembly,

Second Regular Session and most recently authorized under the provisions of House Bill Section 19.046, an Act of the 90th General Assembly, First Regular Session
From Various Funds. \$5,000,000E

SECTION 17.024. — To the Office of Administration

For the Division of Design and Construction

Expense and Equipment

Representing expenditures originally authorized under the provisions of House Bill Section 5.045, an Act of the 90th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 1121.030, an Act of the 90th General Assembly, Second Regular Session

From Office of Administration Revolving Administrative Trust

Fund \$136,553

SECTION 17.026. — To the Office of Administration

For the purpose of funding the Office of Information Technology

Expense and Equipment

Representing expenditures originally authorized under the provisions of House Bill Section 5.225, an Act of the 90th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 1121.040, and Act of the 90th General Assembly, Second Regular Session

From Office of Administration Revolving Administrative Trust

Fund \$341,597

SECTION 17.028. — To the Office of Administration

For the Office of Information Technology

Expense and Equipment

Representing expenditures originally authorized under the provisions of House Bill Section 1105.240, an Act of the 90th General Assembly, Second Regular Session

From Office of Administration Revolving Administrative Trust

Fund \$83,640

SECTION 17.030. — To the Office of Administration

For the Missouri Ethics Commission

Expense and Equipment

Representing expenditures originally authorized under the provisions of House Bill Section 1105.235, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund \$30,000

SECTION 17.032. — To the Office of Administration

For assistance in Lewis and Clark 2004 bicentennial activities

Representing expenditures originally authorized under the provisions of House Bill Section 5.365, an Act of the 90th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 1121.050, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund \$55,906

SECTION 17.034. — To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the Petroleum Violation Escrow Fund, Two Million, Nine Hundred Eighty-eight Thousand Seventy-two Dollars (\$2,988,072) to the Missouri Ethanol Producer Incentive Fund

Representing expenditures originally authorized under the provisions of House Bill Section 6.020, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 19.058, an Act of the 90th General Assembly, First Regular Session

From Petroleum Violation Escrow Fund \$2,988,072

SECTION 17.036. — To the Department of Agriculture

For the purpose of funding Missouri Ethanol Producer Incentive Payments in accordance with Section 142.028 through Section 142.029, RSMo

Representing expenditures originally authorized under the provisions of House Bill Section 6.021, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 19.060, an Act of the 90th General Assembly First Regular Session

From Missouri Ethanol Producer Incentive Fund \$2,988,814

SECTION 17.040. — To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, Eight Hundred Seventy Thousand Dollars (\$870,000) to the Single Purpose Animal Facilities Loan Guarantee Fund

Representing expenditures originally authorized under the provisions of House Bill Section 1006.010, an Act of the 88th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 19.064, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund \$870,000

SECTION 17.042. — To the Department of Agriculture

For the purpose of funding loan guarantees in accordance with Section 348.190, RSMo

Representing expenditures originally authorized under the provisions of House Bill Section 1006.015, an Act of the 88th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 19.066, an Act of the 90th General Assembly, First Regular Session

From Single-Purpose Animal Facilities Loan Guarantee Fund \$2,000,000

SECTION 17.044. — To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, One Million Dollars (\$1,000,000) to the Single Purpose Animal Facilities Loan Guarantee Fund

Representing expenditures originally authorized under the provisions of House Bill Section 6.010, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of

House Bill Section 19.068, an Act of the 90th General Assembly,
First Regular Session
From General Revenue Fund \$1,000,000

SECTION 17.046. — To the Department of Agriculture

For the purpose of funding loan guarantees in accordance with Section
348.190, RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 6.015, an Act of the 89th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 19.070, an Act of the 90th General Assembly,
First Regular Session

From Single-Purpose Animal Facilities Loan Guarantee Fund \$1,000,000

SECTION 17.048. — To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the
General Revenue Fund, One Million, Sixty-seven Thousand Dollars
(\$1,067,000) to the Single-Purpose Animal Facilities Loan Guarantee
Fund

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.010, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.072 an Act of the 90th General
Assembly, First Regular Session

From General Revenue. \$1,067,000

SECTION 17.050. — To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Section 348.190,
RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.011, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.074, an Act of the 90th General
Assembly, First Regular Session

From Single-Purpose Animal Facilities Loan Guarantee Fund \$1,067,000

SECTION 17.052. — To the Department of Agriculture

For the establishment and initial funding of agriculture products utilization
grants as provided in Section 348.408 RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.022, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.078, an Act of the 90th General
Assembly, First Regular Session

From Agricultural Products Utilization Grant Fund \$25,159

SECTION 17.054. — To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the
General Revenue Fund, One Million Dollars (\$1,000,000) to the
Agricultural Products Utilization and Business Development Loan
Guarantee Fund

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.023, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.080, an Act of the 90th General
Assembly, First Regular Session
From General Revenue Fund \$1,000,000

SECTION 17.056. — To the Department of Agriculture

For the establishment and initial funding of loan guarantees as provided in
Section 348.409, RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.024, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.082, an Act of the 90th General
Assembly, First Regular Session
From Agricultural Products Utilization and Business Development
Loan Guarantee Fund \$1,000,000

SECTION 17.058. — To the Department of Agriculture

For agriculture products utilization grants as provided in Section 348.408,
RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 6.010, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.055, an Act of the 90th General Assembly,
Second Regular Session
From Agricultural Products Utilization Grant Fund \$7,319

SECTION 17.060. — To the Department of Natural Resources

For the purpose of funding agency-wide operations
Expense and Equipment

Representing expenditures originally authorized under the provisions of
House Bill Section 6.210, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.060, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$111,890
From Federal and Other Funds. 38,065
Total \$149,955

SECTION 17.062. — To the Department of Natural Resources

For the Division of State Parks

For matching grants for Landmark Local Parks. \$2,374,280
For matching grants for Local Parks. 1,582,852

Representing expenditures originally authorized under the provisions of
House Bill Section 6.280, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.065, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$3,957,132

SECTION 17.064. — To the Department of Natural Resources

For the Division of State Parks

For the purpose of funding matching grants for local parks

Representing expenditures originally authorized under the provisions of
House Bill Section 1020.142, an Act of the 89th General Assembly
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.088, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund \$1,598,987

SECTION 17.066. — To the Department of Natural Resources

For the Division of State Parks

For the purpose of funding matching grants for Local Landmark Parks. \$ 1,196,612

For the purpose of funding matching grants for Local Parks. 83,810

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.259, an Act of the 89th General Assembly
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.090, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund \$1,280,422

SECTION 17.068. — To the Department of Natural Resources

For the Division of State Parks

For the purpose of funding matching grants for Local Landmark Parks. \$ 72,000

For the purpose of funding matching grants for Local Parks. 590,140

Representing expenditures originally authorized under the provisions of
House Bill Section 6.259, an Act of the 89th General Assembly First
Regular Session and most recently authorized under the provisions of
House Bill Section 19.092, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund. \$662,140

SECTION 17.070. — To the Department of Natural Resources

For the Division of State Parks

For the purpose of funding matching grants for the Landmark Local Parks
Program

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.259, an Act of the 88th General Assembly
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.094, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund \$ 179,000

SECTION 17.072. — To the Department of Natural Resources

For the Division of State Parks

For matching grants for Landmark Local Parks. \$1,554,925

For matching grants for Local Parks. 937,363

Representing expenditures originally authorized under the provisions of
House Bill Section 1106.280, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$ 2,492,288

SECTION 17.074. — To the Department of Natural Resources
For the Division of Environmental Quality
For the state's share of construction grants for wastewater treatment
facilities
Representing expenditures originally authorized under the provisions of
House Bill Section 6.340, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.070, an Act of the 90th General Assembly,
Second Regular Session
From Water Pollution Control Fund \$ 3,000,000

SECTION 17.076. — To the Department of Natural Resources
For the Division of Environmental Quality
For the state's share of construction grants for wastewater treatment
facilities
Representing expenditures originally authorized under the provisions of
House Bill Section 1106.340, an Act of the 90th General Assembly,
Second Regular Session
From Water Pollution Control Fund \$2,939,512

SECTION 17.078. — To the Department of Natural Resources
For the Division of Environmental Quality
For Water Pollution Control Program
For the state's share of construction grants for wastewater treatment
facilities
Representing expenditures originally authorized under the provisions of
House Bill Section 7.405, an Act of the 86th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 16.034, an Act of the 90th General Assembly,
First Regular Session
From Water Pollution Control Fund \$150,000

SECTION 17.080. — To the Department of Natural Resources
For the Division of Environmental Quality
For Water Pollution Control Program
For the purpose of funding the state's share of construction grants for
wastewater treatment facilities
Representing expenditures originally authorized under the provisions of
House Bill Section 6.365, an Act of the 88th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 16.042, an Act of the 90th General Assembly,
First Regular Session
From Water Pollution Control Fund \$625,326

SECTION 17.082. — To the Department of Natural Resources
For the Division of Environmental Quality
For Water Pollution Control Program facilities

For the purpose of funding the state's share of construction grants for
wastewater treatment facilities

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.365, an Act of the 88th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 16.044, an Act of the 90th General
Assembly, First Regular Session

From Water Pollution Control Fund \$554,961

SECTION 17.084. — To the Department of Natural Resources

For the Division of Environmental Quality

For Water Pollution Control Program

For the purpose of funding the state's share of construction grants for
wastewater treatment facilities

Representing expenditures originally authorized under the provisions of
House Bill Section 6.365, an Act of the 89th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 16.046, an Act of the 90th General Assembly,
First Regular Session

From Water Pollution Control Fund \$2,750,000

SECTION 17.086. — To the Department of Natural Resources

For the Division of Environmental Quality

For Water Pollution Control Program

For the purpose of funding the state's share of construction grants for
wastewater treatment facilities

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.365, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 16.048, an Act of the 90th General
Assembly, First Regular Session

From Water Pollution Control Fund \$2,981,270

SECTION 17.088. — There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Fund, Ten Million, Six
Hundred Thousand Dollars (\$10,600,000) to the Water and Waste-
water Loan Fund

Representing expenditures originally authorized under the provisions of
House Bill Section 6.344, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.075, an Act of the 90th General Assembly,
Second Regular Session

From Water Pollution Control Fund \$ 10,600,000

SECTION 17.090. — There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Fund, Nine Hundred
Seventy-nine Thousand, Seven Hundred and Fifty-five Dollars
(\$979,755) to the Water and Wastewater Loan Fund

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.367, an Act of the 87th General Assembly,
Second Regular Session and most recently authorized under the

provisions of House Bill Section 16.016, an Act of the 90th General Assembly, First Regular Session
From Water Pollution Control Fund \$979,754

SECTION 17.092. — There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Fund, Ten Million Six Hundred Thousand Dollars (\$10,600,000) to the Water and Wastewater Loan Fund
Representing expenditures originally authorized under the provisions of House Bill Section 6.367, an Act of the 88th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 16.018, an Act of the 90th General Assembly, First Regular Session
From Water Pollution Control Fund \$10,600,000

SECTION 17.094. — There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Fund, Ten Million Six Hundred Thousand Dollars (\$10,600,000) to the Water and Wastewater Loan Fund
Representing expenditures originally authorized under the provisions of House Bill Section 1006.367, an Act of the 88th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 16.020 an Act of the 90th General Assembly, First Regular Session
From Water Pollution Control Fund \$10,600,000

SECTION 17.096. — To the Department of Natural Resources
For the Division of Environmental Quality
There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Fund, Ten Million Five Hundred Fifty-seven Thousand, One Hundred and Twenty-eight dollars (\$10,557,128) to the Water and Wastewater Loan Fund
Representing expenditures originally authorized under the provisions of House Bill Section 6.367, an Act of the 89th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 16.022 an Act of the 90th General Assembly, First Regular Session
From Water Pollution Control Fund \$10,557,129

SECTION 17.098. — There is transferred out of the State Treasury,
chargeable to the Water Pollution Control Fund, Ten Million Six Hundred Thousand Dollars (\$10,600,000) to the Water and Wastewater Loan Fund
Representing expenditures originally authorized under the provisions of House Bill Section 1006.367, an Act of the 89th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 16.024 an Act of the 90th General Assembly, First Regular Session
From Water Pollution Control Fund \$10,600,000

SECTION 17.100. — There is transferred out of the State Treasury,

chargeable to the Water Pollution Control Fund, Seven Million Four Hundred Four Thousand, Nine Hundred and Twenty-two Dollars (\$7,404,922) to the Water and Wastewater Loan Fund and/or the Water and Wastewater Loan Revolving Fund

Representing expenditures originally authorized under the provisions of House Bill Section 1106.344, an Act of the 90th General Assembly, Second Regular Session
From Water Pollution Control Fund \$5,349,095

SECTION 17.102. — To the Department of Natural Resources

For the Division of Environmental Quality

For loans for wastewater treatment facilities pursuant to Sections 644.026-644.124, RSMo

Representing expenditures originally authorized under the provisions of House Bill Section 6.345, an Act of the 90th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 1121.080, and Act of the 90th General Assembly, Second Regular Session

From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund. \$ 60,000,000

SECTION 17.104. — To the Department of Natural Resources

For the Division of Environmental Quality

For loans for wastewater treatment facilities pursuant to Sections 644.026-644.124, RSMo

Representing expenditures originally authorized under the provisions of House Bill Section 1106.345, an Act of the 90th General Assembly, Second Regular Session

From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund. \$60,000,000

SECTION 17.106. — To the Department of Natural Resources

For the Division of Environmental Quality

For Water Pollution Control Program

For loans for wastewater treatment facilities pursuant to Sections 644.026-644.124, RSMo

Representing expenditures originally authorized under the provisions of House Bill Section 6.368, an Act of the 87th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 16.052, an Act of the 90th General Assembly, First Regular Session

From Water and Wastewater Loan Fund \$3,017,310

SECTION 17.108. — To the Department of Natural Resources

For the Division of Environmental Quality

For the Water Pollution Control Program

For loans for wastewater treatment facilities pursuant to Sections 644.026-644.124, RSMo

Representing expenditures originally authorized under the provisions of House Bill Section 1006.368, an Act of the 87th General Assembly, Second Regular Session and most recently authorized under the

provisions of House Bill Section 16.054, an Act of the 90th General
Assembly, First Regular Session
From Water and Wastewater Loan Fund \$15,947,879

SECTION 17.110. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Water Pollution Control Program
For the purpose of funding loans for wastewater treatment facilities
pursuant to Sections 644.026-644.124, RSMo
Representing expenditures originally authorized under the provisions of
House Bill Section 6.368, an Act of the 88th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 16.056, an Act of the 90th General Assembly,
First Regular Session
From Water and Wastewater Loan Fund and/or Water and Wastewater
Loan Revolving Fund. \$22,779,836

SECTION 17.112. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Water Pollution Control Program
For the purpose of funding loans for wastewater treatment facilities
pursuant to Sections 644.026-644.124, RSMo
Representing expenditures originally authorized under the provisions of
House Bill Section 1006.368, an Act of the 88th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 16.058, an Act of the 90th General
Assembly, First Regular Session
From Water and Wastewater Loan Fund and/or Water and Wastewater
Loan Revolving Fund. \$8,693,500

SECTION 17.114. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Water Pollution Control Program
For the purpose of funding loans for wastewater treatment facilities
pursuant to Sections 644.026-644.124, RSMo
Representing expenditures originally authorized under the provisions of
House Bill Section 6.368, an Act of the 89th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 16.060, an Act of the 90th General Assembly,
First Regular Session
From Water and Wastewater Loan Fund and/or Water and Wastewater
Loan Revolving Fund. \$44,564,089

SECTION 17.116. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Water Pollution Control Program
For the purpose of funding loans for wastewater treatment facilities
pursuant to Sections 644.026-644.124, RSMo
From Water and Wastewater Loan Fund and/or Water and Wastewater
Loan Revolving Fund. \$59,905,981

For State Revolving Fund Hardship Grants

From Federal and Other Funds. 430,128

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.368, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 16.062, an Act of the 90th General
Assembly, First Regular Session

Total. \$60,336,109

SECTION 17.118. — To the Department of Natural Resources

For the Division of Environmental Quality

For loans for drinking water systems pursuant to Sections 644.026-
644.124 RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 6.350, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.085, an Act of the 90th General Assembly,
Second Regular Session

From General Revenue Fund \$2,619,000

From Water and Wastewater Loan Fund 22,000,000

Total \$24,619,000

SECTION 17.120. — To the Department of Natural Resources

For the Division of Environmental Quality

For the purpose of funding loans for drinking water systems pursuant to
Sections 644.026-644.124, RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 6.369, an Act of the 89th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 16.026, an Act of the 90th General Assembly,
First Regular Session

From General Revenue Fund \$1,705,280

From Water and Wastewater Loan Fund 15,028,409

Total. \$16,733,689

SECTION 17.122. — To the Department of Natural Resources

For the Division of Environmental Quality

For Water Pollution Control Program

For the purpose of funding loans for drinking water systems pursuant to
Sections 644.026-644.124, RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.369, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 16.028, an Act of the 90th General
Assembly, First Regular Session

From General Revenue Fund \$4,324,910

From Water and Wastewater Loan Fund 22,000,000

Total. \$26,324,910

SECTION 17.124. — To the Department of Natural Resources

For the Division of Environmental Quality

For loans for drinking water systems pursuant to Sections 644.026-644.124, RSMo
 Representing expenditures originally authorized under the provisions of
 House Bill Section 1106.350, an Act of the 90th General Assembly,
 Second Regular Session
 From General Revenue Fund \$2,619,000
 From Water and Wastewater Loan Fund 22,000,000
 Total. \$24,619,000

SECTION 17.126. — To the Department of Natural Resources
 For the Division of Environmental Quality
 For the Clean Water Commission
 For stormwater control grants or loans
 Representing expenditures originally authorized under the provisions of
 House Bill Section 6.355, an Act of the 90th General Assembly, First
 Regular Session and most recently authorized under the provisions of
 House Bill Section 1121.090, an Act of the 90th General Assembly,
 Second Regular Session
 From Water Pollution Control Fund \$1,000,000
 From Stormwater Control Fund. 20,000,000
 Total. \$21,000,000

SECTION 17.128. — To the Department of Natural Resources
 For the Division of Environmental Quality
 For the Clean Water Commission
 For stormwater control grants or loans
 Representing expenditures originally authorized under the provisions of
 House Bill Section 1106.355, an Act of the 90th General Assembly,
 Second Regular Session
 From Stormwater Control Fund. \$18,136,343

SECTION 17.130. — To the Department of Natural Resources
 For the Division of Environmental Quality
 For the Clean Water Commission
 For the purpose of funding stormwater control grants under the provisions
 of Section 644.031, RSMo
 Representing expenditures originally authorized under the provisions of
 House Bill Section 6.370, an Act of the 88th General Assembly, First
 Regular Session and most recently authorized under the provisions of
 House Bill Section 16.072, an Act of the 90th General Assembly,
 First Regular Session
 From Water Pollution Control Fund \$2,436,245

SECTION 17.132. — To the Department of Natural Resources
 For the Division of Environmental Quality
 For the Clean Water Commission
 For the purpose of funding stormwater control grants under the provisions
 of Section 644.031, RSMo
 Representing expenditures originally authorized under the provisions of
 House Bill Section 6.370, an Act of the 89th General Assembly, First
 Regular Session and most recently authorized under the provisions of

House Bill Section 16.074, an Act of the 90th General Assembly,
First Regular Session
From Water Pollution Control Fund \$1,000,000

SECTION 17.134. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Clean Water Commission
For the purpose of funding stormwater control grants under the provisions
of Section 644.031, RSMo
Representing expenditures originally authorized under the provisions of
House Bill Section 1006.370, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 16.076, an Act of the 90th General
Assembly, First Regular Session
From Water Pollution Control Fund \$990,250

SECTION 17.136. — To the Department of Natural Resources
For the Division of Environmental Quality
For a loan interest-share program
Representing expenditures originally authorized under the provisions of
House Bill Section 6.405, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.100, an Act of the 90th General Assembly,
Second Regular Session
From Soil and Water Sales Tax Fund. \$759,236

SECTION 17.138. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Soil and Water Conservation Program
For the purpose of funding a loan interest-share program
Representing expenditures originally authorized under the provisions of
House Bill Section 1006.420, an Act of the 89th General Assembly
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.126, an Act of the 90th General
Assembly, First Regular Session
From Soil and Water Sales Tax Fund. \$264,965

SECTION 17.140. — To the Department of Natural Resources
For the Division of Environmental Quality
For a loan interest-share program
Representing expenditures originally authorized under the provisions of
House Bill Section 1106.405, an Act of the 90th General Assembly,
Second Regular Session
From Soil and Water Sales Tax Fund. \$800,000

SECTION 17.142. — To the Department of Natural Resources
For the Division of Environmental Quality
For soil and water conservation cost-share grants
Representing expenditures originally authorized under the provisions of
House Bill Section 1106.400, an Act of the 90th General Assembly,
Second Regular Session
From Soil and Water Sales Tax Fund. \$13,786,486

SECTION 17.144. — To the Department of Natural Resources

For the Division of Environmental Quality

For a special area land treatment program

Representing expenditures originally authorized under the provisions of
House Bill Section 6.410, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.105, an Act of the 90th General Assembly,
Second Regular Session

From Soil and Water Sales Tax Fund. \$2,131,871

SECTION 17.146. — To the Department of Natural Resources

For the Division of Environmental Quality

For a special area land treatment program

Representing expenditures originally authorized under the provisions of
House Bill Section 1106.410, an Act of the 90th General Assembly,
Second Regular Session

From Soil and Water Sales Tax Fund. \$3,696,200

SECTION 17.148. — To the Department of Natural Resources

For the Division of Environmental Quality

For the purpose of implementing the Solid Waste Management Law in
accordance with Sections 260.250, RSMo through 260.345, RSMo
and Section 260.432, RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 6.440, an Act of the 89th General Assembly First
Regular Session and most recently authorized under the provisions of
House Bill Section 19.100, an Act of the 90th General Assembly,
First Regular Session

From Solid Waste Management Fund \$803,661

SECTION 17.150. — To the Department of Natural Resources

For the Division of Environmental Quality

For implementing provisions of Solid Waste Management Law in
accordance with Sections 260.250, RSMo through 260.345, RSMo
and Section 260.432, RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 1006.440, an Act of the 89th General Assembly
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.108, an Act of the 90th General
Assembly, First Regular Session

From Solid Waste Management Fund. \$1,624,191

From Solid Waste Management Fund-Scrap Tire Subaccount 1,527,793

Total. \$3,151,984

SECTION 17.152. — To the Department of Natural Resources

For the Division of Environmental Quality

For implementation provisions of Solid Waste Management Law in
accordance with Sections 260.250, RSMo through 260.345, RSMo,
and Section 260.432, RSMo

From Solid Waste Management Fund. \$6,300,000

From Solid Waste Management Fund Scrap Tire Subaccount 1,637,000

Representing expenditures originally authorized under the provisions of
House Bill Section 1106.425, an Act of the 90th General Assembly,
Second Regular Session
Total. \$ 7,937,000

SECTION 17.154. — To the Department of Natural Resources

For the Division of Environmental Quality

For implementing provisions of the Solid Waste Management Law in
accordance with Sections 260.250, RSMo through 260.345, RSMo
and Section 260.432, RSMo

Representing expenditures originally authorized under the provisions of
House Bill Section 6.425, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.115, an Act of the 90th General Assembly,
Second Regular Session

From Solid Waste Management Fund. \$2,926,657
From Solid Waste Management Fund-Scrap Tire Subaccount 1,632,404
Total. \$4,559,061

SECTION 17.156. — To the Department of Natural Resources

For the Board of Petroleum Storage Tank Insurance Fund

For all costs incurred related to MTBE activities, including, but not limited
to, inspections for and cleanup of MTBE contamination, but
excluding personal service costs

Representing expenditures originally authorized under the provisions of
House Bill Section 1106.217, an Act of the 90th General Assembly,
Second Regular Session

From Petroleum Storage Tank Insurance Fund. \$2,458,167

SECTION 17.158. — To the Department of Natural Resources

For the Division of Environmental Quality

For the purpose of funding the construction of a vehicle emission
inspection maintenance facility in south county St. Louis

Representing expenditures originally authorized under the provisions of
House Bill Section 1106.307, an Act of the 90th General Assembly,
Second Regular Session

From Federal Funds, Natural Resources Protection Fund Air Pollution
Permit Fee Subaccount, and Other Funds. \$ 2,400,000

SECTION 17.160. — To the Department of Natural Resources

For the Division of Environmental Quality

For low-income emission repairs

Representing expenditures originally authorized under the provisions of
House Bill Section 1106.372, an Act of the 90th General Assembly,
Second Regular Session

From General Revenue Fund \$ 250,000
From Federal Funds 1,750,000
Total. \$2,000,000

SECTION 17.162. — To the Department of Natural Resources

For the Division of Environmental Quality

For the purpose of funding the removal of a river obstruction on the South
Grand River in Henry County
Representing expenditures originally authorized under the provisions of
House Bill Section 1106.356, an Act of the 90th General Assembly,
Second Regular Session
From General Revenue Fund \$400,000

SECTION 17.164. — To the Department of Natural Resources
For the Division of Environmental Quality
For grants to colleges and universities for research projects on soil erosion
and conservation
Representing expenditures originally authorized under the provisions of
House Bill Section 1106.415, an Act of the 90th General Assembly,
Second Regular Session
From Soil and Water Sales Tax Fund. \$160,000

SECTION 17.166. — To the Department of Natural Resources
For the Division of Environmental Quality
For grants to colleges and universities for research projects on soil erosion
and conservation
Representing expenditures originally authorized under the provisions of
House Bill Section 6.415, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.110, an Act of the 90th General Assembly,
Second Regular Session
From Soil and Water Sales Tax Fund. \$160,000

SECTION 17.168. — To the Department of Natural Resources
For the Division of Environmental Quality
For the Soil and Water Conservation Program
For the purpose of funding grants to colleges and universities for research
projects on soil erosion and conservation
Representing expenditures originally authorized under the provisions of
House Bill Section 1006.430, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.120, an Act of the 90th General
Assembly, First Regular Session
From Soil and Water Sales Tax Fund. \$85,279

SECTION 17.170. — To the Department of Economic Development
For the Division of Tourism
Expense and Equipment
From Division of Tourism Supplemental Revenue Fund. \$9,031,469

For the Missouri Lewis and Clark Bicentennial Commission
From General Revenue Fund 485,000
Representing expenditures originally authorized under the provisions of
House Bill Section 1107.080, an Act of the 90th General Assembly,
Second Regular Session
Total. \$9,516,469

SECTION 17.172. — To the Department of Economic Development

There is transferred out of the State Treasury, chargeable to the General Revenue Fund, Nine Hundred Forty-two Thousand Four Hundred and Forty-three Dollars (\$942,443), to the Missouri Supplemental Tax Increment Financing Fund

Representing expenditures originally authorized under the provisions of House Bill Section 1107.020, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund \$942,443

SECTION 17.174. — To the Department of Economic Development

For Missouri supplemental tax increment financing as provided in Section 99.845, RSMo. This appropriation may be used for the following projects: Kansas City Midtown, Excelsior Springs Elms Hotel, Independence Santa Fe Trail Neighborhood, St. Louis City Convention Hotel, Riverside Levee, Vista Del Rio and Cupples Station. In accordance with Section 99.845, RSMo, the appropriation shall not be made unless the applications for the projects have been approved by the Director of the Department of Economic Development and the Commissioner of the Office of Administration

Representing expenditures originally authorized under the provisions of House Bill Section 1107.025, an Act of the 90th General Assembly, Second Regular Session

From Missouri Supplemental Tax Increment Financing Fund \$942,443

SECTION 17.176. — To the Department of Economic Development

For the purpose of funding a research park on Ft. Leonard Wood

Representing expenditures originally authorized under the provisions of House Bill Section 1107.030, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund \$893,407

SECTION 17.178. — To the Department of Economic Development

For the Brownfields Redevelopment Program to include at least \$500,000 for the Lewis and Clark Redevelopment Project in Kansas City

From Property Reuse Fund. \$500,000

For funding new and expanding industry training programs and basic industry retraining programs

From Missouri Job Development Fund 3,781,126

Representing expenditures originally authorized under the provisions of House Bill Section 1107.045, an Act of the 90th General Assembly, Second Regular Session

Total. \$4,281,126

SECTION 17.180. — To the Department of Economic Development

For the Division of Workforce Development

For the purchase and renovation of buildings, land, and erection of buildings

Representing expenditures originally authorized under the provisions of House Bill Section 1107.075, an Act of the 90th General Assembly, Second Regular Session

From Special Employment Security Fund \$197,058

SECTION 17.182. — To the Department of Economic Development
For the Business Extension Service Team Program
Representing expenditures originally authorized under the provisions of
House Bill Section 1107.030, an Act of the 90th General Assembly,
Second Regular Session

From Business Extension Service Team Fund \$800,000

SECTION 17.184. — To the Department of Economic Development
For general administration of Utility Regulation activities
For Public Service Commission
Expense and Equipment
Representing expenditures originally authorized under the provisions of
House Bill Section 1107.130, an Act of the 90th General Assembly,
Second Regular Session

From Public Service Commission Fund \$370,000

SECTION 17.186. — To the Department of Economic Development
For the purpose of funding the Division of Professional Registration
Administration
Personal Service and/or Expense and Equipment
Representing expenditures originally authorized under the provisions of
House Bill Section 1007.140, an Act of the 89th General Assembly,
Second Regular Session and most recently authorized under the
provisions of House Bill Section 19.144, an Act of the 90th General
Assembly, First Regular Session

From Professional Registration Fees Fund. \$282,000

SECTION 17.188. — To the Department of Labor and Industrial Relations
For the Division of Employment Security
For the administration of the Missouri Employment Security Law,
including all expenditures, and for the refund of interest collected on
contributions found to be erroneously collected and paid into the
Special Employment Security Fund, for the payment of interest due
on federal advancements to the Missouri Unemployment Trust Fund,
and for the purchase and renovation of buildings, land, and the
erection of buildings
Expense and Equipment

Representing expenditures originally authorized under the provisions of
House Bill Section 1107.870, an Act of the 90th General Assembly,
Second Regular Session

From Special Employment Security Fund \$1,566,217

SECTION 17.190. — To the Department of Public Safety
For the State Highway Patrol
For Enforcement program
Expense and Equipment
Representing expenditures originally authorized under the provisions of
House Bill Section 15.105, an Act of the 91st General Assembly, First
Regular Session

From Federal Funds. \$249,960

SECTION 17.192. — To the Department of Public Safety

For the Division of Highway Safety

For all allotments, grants and contributions from federal sources that may
be deposited in the State Treasury for grants of National Highway
Safety Act moneysRepresenting expenditures originally authorized under the provisions of
House Bill Section 15.110, an Act of the 91st General Assembly, First
Regular Session

From Federal Funds. \$10,445,394

SECTION 17.194. — To the Department of Public Safety

For the Missouri Veterans Commission

For matching grants for veterans' memorials, pursuant to Section 313.835,
RSMoRepresenting expenditures originally authorized under the provisions of
House Bill Section 8.175, an Act of the 90th General Assembly, First
Regular Session and most recently authorized under the provisions of
House Bill Section 1121.115, an Act of the 90th General Assembly,
Second Regular Session

From Veterans' Commission Capital Improvement Trust Fund \$1,500,000

SECTION 17.196. — To the Department of Corrections

For the Office of the Director

For the purpose of funding start-up costs at Eastern Reception and
Diagnostic Center at Bonne Terre and Southeast Correctional Center
at Charleston
Expense and EquipmentRepresenting expenditures originally authorized under the provisions of
House Bill Section 1109.080, and Act of the 90th General Assembly,
Second Regular Session

From General Revenue Fund \$2,000,000

From Federal Funds. 500,000

Total. \$ 2,500,000

SECTION 17.198. — To the Department of Mental Health

For the Office of the Director

For the Office of Information Systems

Expense and Equipment

Representing expenditures originally authorized under the provisions of
House Bill Section 10.010, an Act of the 90th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 1121.165, an Act of the 90th General
Assembly, Second Regular Session

From General Revenue Fund \$4,050,143

SECTION 17.199. — To the Department of Mental Health

For tobacco enforcement

Provided that no person under the age of eighteen shall be used as either
an employee or a volunteer for the purposes of enforcement of
tobacco laws.

Representing expenditures originally authorized under the provisions of
 House Bill Section 1110.110, an Act of the 90th General Assembly,
 Second Regular Session
 Expense and Equipment
 From General Revenue Fund.. . . . \$890,000

SECTION 17.200. — To the Department of Social Services

For Departmental Administration

For the purpose of funding Temporary Assistance for Needy Families
 Block Grant, child care, Work First Initiatives, work-related trans-
 portation, payments to employees participating in the wage supple-
 mentation program, necessary administrative expenses, or to respond
 to changes in fiscal policy for the Department of Social Services, for
 the purpose of funding programs in response to changes in federal
 fiscal policies with regard to welfare reform
 From General Revenue Fund.. . . . \$379,543
 From Federal Funds 253,029E

For the purpose of funding Work First Initiatives and work related
 expenses including transportation
 From Federal Funds 4,200

For the purpose of funding the payment of case management contracts
 Expense and Equipment
 From General Revenue Fund.. . . . 150,000
 From Federal Funds 150,000

For the purpose of funding payments for FUTURES services contracted
 through private institutions
 Expense and Equipment
 From General Revenue Fund.. . . . 7,666
 From Federal Funds 30,667

For the purpose of funding services to TANF and at risk of becoming
 TANF clients, including their families. These services shall be
 available in Pemiscot, Dunklin, New Madrid, and Mississippi counties
 and shall include, but not be limited to, After school care, Summer
 care, Job training and Family empowerment services
 From General Revenue Fund.. . . . 94,144
 From Federal Funds. 94,144

For the purpose of funding services to TANF, transitional TANF and at
 risk of becoming TANF clients, including their families. These
 services shall be available to Pemiscot, Dunklin, New Madrid,
 Mississippi, Scott, Stoddard, Bollinger, Butler and Wayne counties
 and shall include, but not be limited to Job placement, Constructions
 trades training, Case management and follow up services
 From General Revenue Fund.. . . . 94,144
 From Federal Funds. 94,144

Representing expenditures originally authorized under the provisions of
House Bill Section 1111.010, an Act of the 90th General Assembly,
Second Regular Session
Total. \$1,351,681

SECTION 17.202. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding contractor, hardware, and other costs
associated with planning, development, and implementation of a
Family Assistance Management Information System (FAMIS)
From General Revenue Fund \$467,023
From Federal Funds 279,020

Representing expenditures originally authorized under the provisions of
House Bill Section 1111.135, an Act of the 90th General Assembly,
Second Regular Session
Total. \$746,043

SECTION 17.204. — To the Department of Social Services

For the Division of Child Support Enforcement

For the purpose of funding contractor and associated costs related to the
development of the Missouri Automated Child Support System
(MACSS)
From Child Support Enforcement Collections Fund \$ 897,956
From Federal Funds 2,664,000

Representing expenditures originally authorized under the provisions of
House Bill Section 1111.070, an Act of the 90th General Assembly,
Second Regular Session
Total. \$3,561,956

SECTION 17.206. — To the Department of Social Services

For the Division of Family Services

For the purpose of funding early childhood start-up and expansion grants
pursuant to Chapter 313, RSMo
From Early Childhood Development, Education and Care Fund \$3,269,000

For the purpose of funding early childhood development, education, and
care programs for low-income families pursuant to Chapter 313,
RSMo
From Early Childhood Development, Education and Care Fund 773,000

For the purpose of funding certificates to low-income, at-home families for
early childhood development, education, and care pursuant to Chapter
313, RSMo
From Early Childhood Development, Education and Care Fund 3,343,000

Representing expenditures originally authorized under the provisions of
House Bill Section 1111.160, an Act of the 90th General Assembly,
Second Regular Session
Total. \$7,385,000

SECTION 17.208. — To the Department of Social Services

For the Division of Aging
 For the purpose of funding Adult Day Care Health Care Startup Grants
 Representing expenditures originally authorized under the provisions of
 House Bill Section 1111.640, an Act of the 90th General Assembly,
 Second Regular Session
 From General Revenue Fund \$31,250

SECTION 17.210. — To the Department of Social Services
 For the Division of Medical Services
 For the purpose of funding the operation of the Information System (IS)
 From General Revenue Fund \$2,427,406
 From Federal Funds 8,074,675

Representing expenditures originally authorized under the provisions of
 House Bill Section 1011.410, an Act of the 89th General Assembly,
 Second Regular Session and most recently authorized under the
 provisions of House Bill Section 19.168, an Act of the 90th General
 Assembly, First Regular Session
 Total \$10,502,081

SECTION 17.212. — To the Department of Social Services
 For the Division of Medical Services
 Expense and Equipment
 From General Revenue Fund \$1,822
 From Federal Funds 665

Representing expenditures originally authorized under the provisions of
 House Bill Section 11.400, an Act of the 90th General Assembly,
 First Regular Session and most recently authorized under the
 provisions of House Bill Section 1121.175, an Act of the 90th General
 Assembly, Second Regular Session
 Total \$2,487

SECTION 17.214. — To the Department of Social Services
 For the Division of Medical Services
 For dental services under the Medicaid fee-for-service and managed care
 programs
 Representing expenditures originally authorized under the provisions of
 House Bill Section 11.435, an Act of the 90th General Assembly,
 First Regular Session and most recently authorized under the
 provisions of House Bill Section 1121.180, an Act of the 90th General
 Assembly, Second Regular Session
 From General Revenue Fund \$65,220

SECTION 17.216. — To the Secretary of State
 For the Missouri State Library
 For the purpose of funding costs related to library automation
 Representing expenditures originally authorized under the provisions of
 House Bill Section 1020.155, an Act of the 88th General Assembly,
 Second Regular Session and most recently authorized under the
 provisions of House Bill Section 19.170, an Act of the 90th General
 Assembly, First Regular Session

From General Revenue Fund \$966,192

SECTION 17.218. — To the Attorney General

Expense and Equipment

Representing expenditures originally authorized under the provisions of House Bill Section 1114.230, an Act of the 90th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 1121.195, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund \$121,702

SECTION 17.220. — To the House of Representatives

For House Contingent Expenses

House Staff

Representing expenditures originally authorized under the provisions of House Bill Section 12.405, an Act of the 90th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 1121.200, an Act of the 90th General Assembly, Second Regular Session

From General Revenue Fund \$1,000,000

SECTION 17.222. — To the Department of Social Services

For payment of real property leases, related services, utilities, and systems furniture; and structural modifications for new FTE

Expense and Equipment

From General Revenue. \$1,186,853

From Federal Funds 1,102,575

From Child Support Enforcement Collections Fund. 185,640

Representing expenditures originally authorized under the provisions of House Bill Section 1013.115, an Act of the 89th General Assembly, Second Regular Session and most recently authorized under the provisions of House Bill Section 19.166, an Act of the 90th General Assembly, First Regular Session

Total. \$2,475,068

SECTION 17.224. — To the Office of Administration

For the Division of Facilities Management

For the payment of real property leases, real property lease purchases, related services, and utilities; and structural modifications for new FTE for rents consolidated to the Office of Administration, including payments for the Department of Revenue

Expense and Equipment

Representing expenditures previously authorized under the provisions of House Bill Section 1113.015, an Act of the 90th General Assembly, First Regular Session

From General Revenue Fund \$295,200

SECTION 17.226. — To the Office of Administration

For the Division of Facilities Management

For the Department of Social Services

For the payment of real property leases, real property lease purchases,
related services, utilities, and systems furniture; and structural
modifications for new FTE

Expense and Equipment	
From General Revenue Fund	\$321,772
From Federal Funds	239,846
From Third Party Liability Collections Fund	7,380
From Pharmacy Rebates Fund	2,460
From Nursing Facility Quality of Care Fund.	<u>32,472</u>

Representing expenditures originally authorized under the provisions of
House Bill Section 1113.100, an Act of the 90th General Assembly,
Second Regular Session

Total.	\$603,930
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SECTION 17.228. — To the Department of Natural Resources

For the payment of real property leases, real property lease purchases,
related services, utilities, and systems furniture; and structural
modifications for new FTE

Expense and Equipment	
Representing expenditures originally authorized under the provisions of House Bill Section 1113.045, an Act of the 90th General Assembly, Second Regular Session	
From General Revenue Fund	\$104,304
From any funds administered by the Department of Natural Resources except General Revenue Fund	<u>256,496</u>
Total.	\$360,800

SECTION 17.230. — To the Office of Administration

For the Division of Facilities Management

For the Department of Mental Health

For the payment of real property leases, real property lease purchases,
related services, utilities, and systems furniture; and structural
modifications for new FTE

Expense and Equipment	
Representing expenditures originally authorized under the provisions of House Bill Section 1113.090, an Act of the 90th General Assembly, Second Regular Session	
From General Revenue Fund	\$287,000

SECTION 17.232. — To the Department of Social Services

For systems furniture

Expense and Equipment	
From General Revenue Fund.	\$420,774
From Federal Funds	210,612
From Nursing Facility Quality of Care Fund.	<u>8,084</u>

Representing expenditures originally authorized under the provisions of
House Bill Section 13.095, an Act of the 90th General Assembly,
First Regular Session and most recently authorized under the
provisions of House Bill Section 1121.215, an Act of the 90th General
Assembly, Second Regular Session

Total. \$639,470

Approved June 22, 2001

HB 18 [CCS SCS HCS HB 18]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CAPITAL IMPROVEMENT PROJECTS INVOLVING MAINTENANCE, REPAIR, REPLACEMENT, AND IMPROVEMENT OF STATE BUILDINGS AND FACILITIES, INCLUDING INSTALLATION, MODIFICATION, AND RENOVATION OF FACILITY COMPONENTS, EQUIPMENT OR SYSTEMS, AND TO TRANSFER MONEY AMONG CERTAIN FUNDS.

AN ACT to appropriate money for capital improvement projects involving the maintenance, repair, replacement, and improvement of state buildings and facilities, including installation, modification, and renovation of facility components, equipment or systems, and to transfer money among certain funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2003, as follows:

SECTION 18.005. — To the Office of Administration
For the Department of Elementary and Secondary Education
For maintenance, repairs, replacements, and improvements at the Missouri
School for the Blind

From Bingo Proceeds for Education Fund.	\$263,360
From Facilities Maintenance Reserve Fund	<u>2,265,073</u>
Total.	\$2,528,433

SECTION 18.010. — To the Office of Administration
For the Department of Elementary and Secondary Education
For maintenance, repairs, replacements, and improvements at the Missouri
School for the Deaf

From Bingo Proceeds for Education Fund.	\$1,174,000
From Facilities Maintenance Reserve Fund.	<u>183,684</u>
Total.	\$1,357,684

SECTION 18.015. — To the Office of Administration
For the Department of Elementary and Secondary Education
For maintenance, repairs, replacements, and improvements at Dale M.
Thompson, Lakeview, Boonslick, E.W. Thompson, B.W. Robinson,
and Helen M. Davis State Schools for the Severely Handicapped

From Bingo Proceeds for Education Fund.	\$969,800
From Facilities Maintenance Reserve Fund	<u>4,193,981</u>
Total.	\$5,163,781

SECTION 18.020. — To the Office of Administration

For The State Lottery Commission

For maintenance, repairs, replacements, and improvements at the Missouri

Lottery Commission headquarters

From Lottery Enterprise Fund. \$116,683

SECTION 18.025. — To the Office of Administration

For the Division of Design and Construction

For emergency requirements for facilities statewide

From Office of Administration Revolving Administrative Trust Fund. \$50,000

From Facilities Maintenance Reserve Fund 800,000Total. \$850,000**SECTION 18.030.** — To the Office of Administration

For the Division of Design and Construction

For statewide assessment, abatement, removal, remediation, and management of hazardous materials and pollutants

From Facilities Maintenance Reserve Fund. \$1,000,000

SECTION 18.035. — To the Office of Administration

For The Division of Design and Construction

For unprogrammed requirements for facilities statewide

From Facilities Maintenance Reserve Fund. \$1,100,000

From Office of Administration Revolving Administrative Trust Fund 400,000

From Unemployment Compensation Administration Fund 200,000

From Workers' Compensation Fund. 100,000Total. \$1,800,000**SECTION 18.040.** — To the Office of Administration

For the Division of Design and Construction

For the statewide roofing management system

From Facilities Maintenance Reserve Fund. \$1,000,000

SECTION 18.045. — To the Office of Administration

For the Division of Design and Construction

For the statewide pavement management system

From Facilities Maintenance Reserve Fund. \$300,000

SECTION 18.050. — To the Office of Administration

For the Division of Design and Construction

For maintenance, repairs, replacements, improvements, and building assessments at facilities statewide

From Facilities Maintenance Reserve Fund. \$6,700,000

From Office of Administration Revolving Administrative Trust Fund. 400,000

From Unemployment Compensation Administration Fund 100,000

From Workers' Compensation Fund. 200,000

From Veterans' Commission Capital Improvement Trust Fund 500,000

From Bingo Proceeds for Education Fund. 450,000Total. \$8,350,000**SECTION 18.055.** — To the Office of Administration

For the Division of Facilities Management

For maintenance, repairs, replacements, and improvements to facilities in the Capitol Complex, the Penney's, and Wainwright State Office Buildings.

From Facilities Maintenance Reserve Fund.	\$7,334,789
From Office of Administration Revolving Administrative Trust Fund.	4,861,356
Total.	\$12,196,145

SECTION 18.060. — To the Office of Administration

For the Department of Agriculture

For maintenance, repairs, replacements, and improvements to the Agriculture, Commercial, and Varied Industries Buildings at the Missouri State Fairgrounds

From Facilities Maintenance Reserve Fund.	\$1,989,195
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SECTION 18.065. — To the Department of Natural Resources

For the Division of State Parks

For capital improvement expenditures for recoupments, donations, and grants that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than \$500,000 requires the approval of the chairperson or designee of both Senate Appropriations and House Budget committees.

From Federal Funds and Other Funds.	\$400,000E
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SECTION 18.070. — To the Department of Natural Resources

For the Division of State Parks

For design, renovation, and construction at state parks and historic sites in the event of damage from fire, flood, severe storms, or other unforeseen events

From Parks Sales Tax Fund.	\$2,000,000
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SECTION 18.075. — To the Department of Natural Resources

For the Division of State Parks

For maintenance, repairs, replacements, renovations, and improvements at park facilities statewide

From Parks Sales Tax Fund.	\$3,700,000
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SECTION 18.080. — To the Department of Natural Resources

For the Division of State Parks

For maintenance, repairs, replacements, and improvements to roads, parking lots, and trails at parks statewide

From State Parks Earnings Fund.	\$480,000
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SECTION 18.085. — To the Department of Natural Resources

For the acquisition, restoration, development, and maintenance of exhibits at parks and historic sites statewide

From State Parks Earnings Fund.	\$700,000
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SECTION 18.090. — To the Department of Natural Resources

For the Division of State Parks

For the acquisition, restoration, development, and maintenance of historic properties pursuant to Chapter 253, RSMo

From Historic Preservation Revolving Fund. \$1,000,000

SECTION 18.095. — To the Department of Natural Resources

For the Division of State Parks

For repairs and improvements at Bollinger Mill, Watkins Woolen Mill,
Roaring River, St. Francois, Washington, and Babler Memorial State
Parks

From Parks Sales Tax Fund.. . . . \$968,375

From State Parks Earnings Fund. 229,809

Total. \$1,198,184

SECTION 18.100. — To the Department of Natural Resources

For the Division of Geology and Land Survey

For repairs, replacements, and improvements at the Main Building and
Annex

From Facilities Maintenance Reserve Fund. \$2,386,719

SECTION 18.105. — To the Office of Administration

For the Department of Economic Development

For maintenance, repairs, replacements, and improvements to tourism
information centers statewide

From Tourism Supplemental Revenue Fund. \$253,661

SECTION 18.115. — To the Office of Administration

For the Department of Labor and Industrial Relations

For maintenance, repairs, replacements, and improvements to the
Springfield Job Service Office

From Special Employment Security Fund. \$128,990

SECTION 18.120. — To the Office of Administration

For the Department of Labor and Industrial Relations

For maintenance, repairs, replacements, and improvements at the
Employment Security Central Office Building

From Special Employment Security Fund. \$335,912

SECTION 18.125. — To the Office of Administration

For the Department of Public Safety

For repairs, replacements, and improvements at Missouri State Highway
Patrol facilities statewide

From Office of Administration Revolving Administrative Trust Fund. \$2,375,209

SECTION 18.130. — To the Office of Administration

For the Department of Public Safety

For repairs, replacements, and improvements at the St. Louis Veterans'
Home

From Veterans' Commission Capital Improvement Trust Fund. \$71,156

SECTION 18.135. — To the Office of Administration

For the Department of Public Safety

For repairs, replacements, and improvements at the Springfield Veterans'
Cemetery

From Veterans' Commission Capital Improvement Trust Fund. \$171,319

SECTION 18.140. — To the Office of Administration
For the Adjutant General Missouri National Guard
For repairs, replacements, and improvements at National Guard facilities
statewide
From Facilities Maintenance Reserve Fund. \$5,671,750

SECTION 18.145. — To the Office of Administration
For the Adjutant General Missouri National Guard
For the federal real property operations and maintenance and minor
construction program at non-armory facilities
From Federal Funds. \$3,256,982E

SECTION 18.150. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Algoa Correctional Center
From Facilities Maintenance Reserve Fund. \$1,436,944

SECTION 18.155. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Central Missouri Correctional Center
From Facilities Maintenance Reserve Fund. \$967,331

SECTION 18.160. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Chillicothe Correctional Center
From Facilities Maintenance Reserve Fund. \$1,505,407

SECTION 18.165. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Farmington Correctional Center
From Facilities Maintenance Reserve Fund. \$5,347,482

SECTION 18.170. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Missouri Eastern Correctional Center
From Facilities Maintenance Reserve Fund. \$1,189,672

SECTION 18.175. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Moberly Correctional Center
From Facilities Maintenance Reserve Fund. \$6,072,873

SECTION 18.180. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements to facilities at
the Ozark Correctional Center

From Facilities Maintenance Reserve Fund. \$421,240

SECTION 18.185. — To the Office of Administration

For the Department of Corrections

For maintenance, repairs, replacements, and improvements to facilities at
the Western Reception, Diagnostic and Correctional Center

From Facilities Maintenance Reserve Fund. \$2,366,988

SECTION 18.190. — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements to facilities at
the Bellefontaine Habilitation Center

From General Revenue Fund. \$196,548

From Facilities Maintenance Reserve Fund 1,537,022

Total. \$1,733,570

SECTION 18.195. — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements to facilities at
the Fulton State Hospital

From Facilities Maintenance Reserve Fund. \$3,749,519

SECTION 18.200. — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements to facilities at
the Hannibal, Kansas City, and Sikeston Regional Centers

From General Revenue Fund. \$346,070

From Facilities Maintenance Reserve Fund 299,693

Total. \$645,763

SECTION 18.205. — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements to facilities at
the Hawthorn Children's Psychiatric Hospital

From General Revenue Fund. \$544,438

Section 18.210. To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements to facilities at
the Higginsville Habilitation Center

From General Revenue Fund. \$913,266

From Facilities Maintenance Reserve Fund 2,908,320

Total. \$3,821,586

SECTION 18.215. — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements to facilities at
the Marshall Habilitation Center

From Facilities Maintenance Reserve Fund. \$304,047

SECTION 18.220. — To the Office of Administration

For the Department of Mental Health

For maintenance, repairs, replacements, and improvements to facilities at
the Mid-Missouri Mental Health Center
From General Revenue Fund. \$325,813

SECTION 18.225. — To the Office of Administration
For the Department of Mental Health
For maintenance, repairs, replacements, and improvements to facilities at
the Nevada Habilitation Center
From General Revenue Fund. \$232,477

SECTION 18.230. — To the Office of Administration
For the Department of Mental Health
For maintenance, repairs, replacements, and improvements to facilities at
the St. Louis Developmental Disabilities Treatment Center
From General Revenue Fund. \$282,976
From Facilities Maintenance Reserve Fund 115,699
Total. \$398,675

SECTION 18.235. — To the Office of Administration
For the Department of Mental Health
For maintenance, repairs, replacements, and improvements to facilities at
the Southeast Missouri Mental Health Center
From Facilities Maintenance and Reserve Fund. \$557,125

SECTION 18.240. — To the Office of Administration
For the Department of Mental Health
For maintenance, repairs, replacements, and improvements to facilities at
the Western Missouri Mental Health Center
From Facilities Maintenance and Reserve Fund. \$148,038

SECTION 18.245. — To the Office of Administration
For the Department of Social Services
For maintenance, repairs, replacements, and improvements at the Camp
Avery Park Camp
From Facilities Maintenance Reserve Fund. \$262,387

SECTION 18.250. — To the Office of Administration
For the Department of Social Services
For maintenance, repairs, replacements, and improvements at the Hogan
Street, Waverly, and Missouri Hills Youth Centers
From Facilities Maintenance Reserve Fund. \$460,126

SECTION 18.255. — To the Office of Administration
For the Department of Social Services
For maintenance, repairs, replacements, and improvements at Division of
Youth Services facilities statewide
From Facilities Maintenance Reserve Fund. \$1,879,632

SECTION 18.260. — To the Office of Administration
For the Department of Social Services
For maintenance, repairs, replacements, and improvements at the Prince
Hall Family Center

From Facilities Maintenance Reserve Fund.....	\$1,265,464
From General Revenue Fund.....	<u>130,698</u>
Total.....	\$1,396,162

SECTION 18.265. — There is transferred out of the state treasury,
chargeable to the General Revenue Fund, sixty-one million, one
hundred forty-nine thousand, three hundred fifty-six dollars to the
Facilities Maintenance Reserve Fund

From General Revenue Fund.....	\$61,149,356
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SECTION 18.270. — There is transferred out of the state treasury,
chargeable to the funds shown below, two million, three hundred
seventy-five thousand, two hundred nine dollars to the Office of
Administration Revolving Administrative Trust Fund

From General Revenue Fund.....	\$478,608
From State Highways and Transportation Department Fund.....	1,681,647
From Gaming Commission Fund.....	11,876
From Highway Patrol Instruction Fund.....	475
From State Forensic Laboratory Fund.....	712
From Criminal Record System Fund.....	35,628
From Highway Patrol Academy Fund.....	9,500
From Missouri Air Pollution Control Fund.....	2,375
From Highway Patrol Motor Vehicle & Aircraft Revolving Fund.....	95,008
From Criminal Justice Networking and Technology Revolving Fund.....	<u>59,380</u>
Total.....	\$2,375,209

SECTION 18.275. — There is transferred out of the state treasury,
chargeable to the General Revenue Fund, five million, seven hundred
eleven thousand, three hundred fifty-six dollars to the Office of
Administration Revolving Administrative Trust Fund

From General Revenue Fund.....	\$5,711,356
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SECTION 18.280. — There is transferred out of the state treasury,
chargeable to the funds shown below, the following amounts to the
General Revenue Fund

From Federal Funds.....	\$147,050E
From Other Funds.....	<u>1,083,040E</u>
Total.....	\$1,230,090

SECTION 18.285. — There is transferred out of the state treasury,
chargeable to the General Revenue Reimbursements Fund, two
million, eight hundred forty thousand, and three dollars to the General
Revenue Fund

From General Revenue Reimbursements Fund.....	\$2,840,003
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Bill Totals

Year 1 (2002)

General Revenue.....	\$29,665,363
Federal Funds.....	1,808,115
Other Funds.....	<u>9,140,614</u>
Total.....	\$40,614,092

Year 2 (2003)

General Revenue.....	\$40,646,243
Federal Funds.....	1,948,867
Other Funds.....	<u>6,769,052</u>
Total.....	\$49,364,162

Approved June 22, 2001

HB 19 [CCS SCS HCS HB 19]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: PLANNING, EXPENSES, CAPITAL IMPROVEMENTS INCLUDING MAJOR ADDITIONS AND RENOVATIONS, NEW STRUCTURES, LAND IMPROVEMENTS OR ACQUISITIONS, AND TO TRANSFER MONEY AMONG CERTAIN FUNDS.

AN ACT to appropriate money for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions, and to transfer money among certain funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2001 and ending June 30, 2003, as follows:

SECTION 19.005. — To the Office of Administration

For the Department of Elementary and Secondary Education

For repairs, replacements, and improvements at the Maple Valley School
for the Severely Handicapped

From Bingo Proceeds for Education Fund..... \$1,937,045

SECTION 19.006. — To the Office of Administration

For the Department of Elementary and Secondary Education

For design, construction and improvements for ADA compliant play-
grounds at the following State Schools for the Severely Handicapped

For Mapaville School at Mapaville..... \$217,625

For Kirchner School at Jefferson City..... 221,100

For Helen M. Davis School at St. Joseph..... 276,500

For Delmar Cobble School at Columbia..... 262,100

For Greene Valley School at Springfield..... 318,700

From Bingo Proceeds For Education Fund..... 1,296,025

For Mapaville School at Mapaville, Kirchner School at Jefferson City,
Helen M. Davis School at St. Joseph, Delmar Cobble School at
Columbia, and Greene Valley School at Springfield

From Handicapped Childrens Trust Fund..... 136,175

Total..... \$1,432,200

SECTION 19.010. — To the Office of Administration

For the Division of Design and Construction
For Design Studies and Planning to determine the best solution for an
Annex to the Capitol Building, including but not limited to options to
the North and Northeast of the Capitol Building and comparing these
to the Fifth Floor addition to the Capitol and reporting the findings to
the Governor and General Assembly by January 1, 2002.
From General Revenue Fund. \$500,000

SECTION 19.011. — To the Office of Administration
For the Division of Design and Construction
For planning, design, and construction of the Lewis and Clark Monument
in St. Charles
From General Revenue Fund. \$150,000

SECTION 19.015. — To the Office of Administration
For the Division of Design and Construction
For redevelopment of the Jefferson City Correctional Center site
From General Revenue Fund. \$200,000

SECTION 19.020. — To the Department of Natural Resources
For the Division of State Parks
For purchases of land and appurtenances thereon, within, or adjacent to
existing state parks and/or historic sites
From State Parks Earnings Fund. \$1,000,000

SECTION 19.025. — To the Department of Natural Resources
For the Division of State Parks
For design, renovation, construction, property acquisition, and improve-
ments at Bennett Spring, Mastadon, Route 66, Lewis & Clark, and
Washington state parks
From Federal Funds and Other Funds. \$100,000
From State Parks Earnings Fund 1,086,513
Total. \$1,186,513

SECTION 19.030. — To the Department of Conservation
For stream access acquisition and development; lake site acquisition and
development; financial assistance to other public agencies or in
partnership with other public agencies; land acquisition for upland
wildlife, state forests, wetlands, and natural areas and additions to
existing areas; for major improvements and repairs (including
materials, supplies and labor) to buildings, roads, hatcheries, and other
departmental structures; and for soil conservation activities and erosion
control on department land
From Conservation Commission Fund. \$50,000,000

SECTION 19.035. — To the Department of Economic Development
For the Division of Motor Carrier and Railroad Safety
For protection of the public against hazards existing at railroad crossings
pursuant to Division of Motor Carrier and Railroad Safety action
under Chapter 389, RSMo
From Highway Department Grade Crossing Safety Account. \$2,275,350

SECTION 19.040. — To the Department of Public Safety
For the design, renovation, and construction at veterans cemeteries in
Higginsville and Springfield
From Veterans' Commission Capital Improvement Trust Fund. \$679,794

SECTION 19.045. — To the Department of Public Safety
For the construction, renovations, and improvements at the Cape
Girardeau Veterans' Home
From Veterans' Commission Capital Improvement Trust Fund. \$79,668

SECTION 19.050. — To the Office of Administration
For the Adjutant General Missouri National Guard
For the federal environmental compliance program at non-armory
facilities
From Federal Funds. \$1,750,000

SECTION 19.055. — To the Office of Administration
For the Adjutant General Missouri National Guard
For administrative support of federal projects
From General Revenue Fund. \$200,000

SECTION 19.060. — To the Office of Administration
For the Division of Design and Construction
For design, project management, and construction inspection of federal
projects for the Adjutant General Missouri National Guard
From General Revenue Fund. \$200,000

SECTION 19.065. — To the Office of Administration
For the Adjutant General Missouri National Guard
For design of National Guard facilities statewide
From Federal Funds. \$500,000E

SECTION 19.070. — To the Office of Administration
For the Adjutant General Missouri National Guard
For design and construction of a new armory in Maryville
From General Revenue Fund. \$1,757,698
From Federal and Local Funds 6,775,200
Total. \$8,532,898

SECTION 19.075. — To the Office of Administration
For the Department of Mental Health
For design, construction, renovations, and life safety improvements for the
Fulton State Hospital
From General Revenue Fund. \$156,221

SECTION 19.080. — To the Office of Administration
For the Department of Mental Health
For design, construction, renovation, and improvements for electrical
systems at the St. Louis Psychiatric Rehabilitation Center
From General Revenue Fund. \$303,776

SECTION 19.085. — To the Office of Administration

For the Department of Mental Health
For design, land acquisition, renovation, construction, and improvements
for a new mental health center in Kansas City
From General Revenue Fund. \$3,448,600

***SECTION 19.086.** — To the Office of Administration
For the Department of Mental Health For the lease purchase of the
Northwest Missouri Psychiatric Hospital
From General Revenue Fund. \$818,171

*I hereby veto \$818,171 general revenue for a lease purchase at the Northwest Missouri Psychiatric Hospital. A study is currently underway to determine the need for additional psychiatric care beds. Additional state funding should not be considered until the study is complete. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$818,171 from \$818,171 to \$0 in total from General Revenue Fund.
From \$818,171 to \$0 in total for the section.

BOB HOLDEN, Governor

***SECTION 19.087.** — To the Office of Administration
For the Department of Mental Health
For the renovation of 10 acute care psychiatric beds at Nevada Regional
Medical Center
From General Revenue Fund. \$300,000

*I hereby veto \$300,000 general revenue for renovation of the Nevada Regional Medical Center. A study is currently underway to determine the need for additional psychiatric care beds. Additional state funding should not be considered until the study is complete. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

Said section is vetoed in its entirety by \$300,000 from \$300,000 to \$0 in total from General Revenue Fund.
From \$300,000 to \$0 in total for the section.

BOB HOLDEN, Governor

***SECTION 19.090.** — There is hereby transferred out of the state treasury,
chargeable to the General Revenue Reimbursements Fund, four
million, one hundred eight thousand, five hundred ninety-seven
dollars to the General Revenue Fund
From General Revenue Reimbursements Fund. \$4,108,597

*I hereby veto \$200,000 for the appropriated transfer of funds from the general revenue reimbursements fund to general revenue. Funding was eliminated for a specific project and the appropriated transfer from the general revenue reimbursements fund should be decreased accordingly. A weak national economy is expected to depress revenue collections below original estimates for Fiscal Year 2002. A veto is necessary to help bring expenditures in line with available resources.

By \$200,000 from \$4,108,597 to \$3,908,597 in total from General Revenue Reimbursements Fund.

From \$4,108,597 to \$3,908,597 in total for the section.

BOB HOLDEN, Governor

Bill Totals

Year 1 (2002)

General Revenue.....	\$7,834,466
Federal Funds.....	8,250,200
Other Funds.....	<u>30,951,237</u>
Total.....	\$47,035,903

Year 2 (2003)

General Revenue.....	\$200,000
Federal Funds.....	825,000
Other Funds.....	<u>27,589,333</u>
Total.....	\$28,614,333

Approved June 22, 2001

HB 45 [HB 45]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes the one-year residency requirement for the Commissioner of Education.

AN ACT to repeal section 161.112, RSMo 2000, relating to the qualifications of the commissioner of education, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

161.112. Commissioner of education — appointment — qualifications — compensation — removal.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 161.112, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 161.112, to read as follows:

161.112. COMMISSIONER OF EDUCATION — APPOINTMENT — QUALIFICATIONS — COMPENSATION — REMOVAL. — The state board of education shall appoint a commissioner of education as its chief administrative officer. The commissioner shall be a citizen [who has resided in the state for at least one year immediately preceding his appointment and who possesses] **and resident of the state upon assumption of his or her duties, and shall possess** an educational attainment and breadth of experience in the administration of public education. The board shall prescribe the duties of the commissioner and fix [his] **the commissioner's** compensation, and may remove [him] **the commissioner** at its discretion.

Approved June 8, 2001

HB 48 [HB 48]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions relating to embalmers and funeral directors.

AN ACT to repeal sections 333.041, 333.042, 333.061 and 333.081, RSMo 2000, relating to embalmers and funeral directors, and to enact in lieu thereof four new sections relating to the same subject.

SECTION

A. Enacting clause.

333.041. Qualifications of applicants — examinations — licenses — board may waive requirements in certain cases.

333.042. Application and examination fees for persons wanting to be funeral directors, apprenticeship requirements — examination content for applicants — apprenticeship duties — appearance before board — limited license only for cremation — exemptions from apprenticeship.

333.061. No funeral establishment to be operated by unlicensed person — license requirements, application procedure — license may be suspended or revoked or not renewed.

333.081. License renewal, fee — failure to renew, effect — business address required.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 333.041, 333.042, 333.061 and 333.081, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 333.041, 333.042, 333.061 and 333.081, to read as follows:

333.041. QUALIFICATIONS OF APPLICANTS — EXAMINATIONS — LICENSES — BOARD MAY WAIVE REQUIREMENTS IN CERTAIN CASES. — 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he **or she** is:

(1) At least eighteen years of age, and possesses a high school diploma or equivalent thereof;

(2) Either a citizen or a bona fide resident of the state of Missouri or entitled to a license [under] **pursuant to** section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and

(3) A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is [entering] **enrolled in** an accredited institution of mortuary science education shall register with the board as a **practicum** student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his **or her** practicum for the accredited institution of mortuary science education. The [forms] **form** for registration as a [student and as a] practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he **or she**:

(1) Is at least eighteen years of age, and possesses a high school diploma or equivalent thereof;

(2) Is either a citizen or bona fide resident of the state of Missouri or entitled to a license [under] **pursuant to** section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;

(3) Is a person of good moral character;

(4) Has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education, or any successor organization recognized by the United States Department of Education, for funeral service education. If an applicant does not appear for the final examination before the board within five years from the date of his **or her** graduation from an accredited institution of mortuary science education, his **or her** registration as a student embalmer shall be automatically canceled;

(5) Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he **or she** may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his **or her** desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;

(6) Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision

of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not appear for oral examination within the five years after his **or her** graduation from an accredited institution of mortuary science education, then he **or she** must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his **or her** qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

333.042. APPLICATION AND EXAMINATION FEES FOR PERSONS WANTING TO BE FUNERAL DIRECTORS, APPRENTICESHIP REQUIREMENTS — EXAMINATION CONTENT FOR APPLICANTS — APPRENTICESHIP DUTIES — APPEARANCE BEFORE BOARD — LIMITED LICENSE ONLY FOR CREMATION — EXEMPTIONS FROM APPRENTICESHIP. — 1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. Applicants not entitled to a license [under] **pursuant to** section 333.051 shall serve an apprenticeship for at least twelve months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his **or her** duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he **or she** shall **make application, pay the current application and examination fee and** successfully complete the [written] **Missouri law** examination [pursuant

to subsection 1 of this section; however, he is]. **He or she shall be** exempt from the [six-month internship, six-month] **twelve-month** apprenticeship and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he **or she** may obtain a full funeral director's license if he **or she** fulfills the [internship,] apprenticeship and [practical knowledge test requirements of subsection 1 of this section] **successfully completes the funeral director practical examination.**

3. If an individual is a Missouri licensed embalmer or has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department of Education for Funeral Service Education, or has successfully completed a course of study in funeral directing offered by a college accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve-month apprenticeship required by subsection 1 of this section.

333.061. NO FUNERAL ESTABLISHMENT TO BE OPERATED BY UNLICENSED PERSON — LICENSE REQUIREMENTS, APPLICATION PROCEDURE — LICENSE MAY BE SUSPENDED OR REVOKED OR NOT RENEWED. — 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and [his] **the embalmer's** license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license [under] **pursuant to this** section within thirty days after it is filed[, and no prosecution of any person who has filed an application for such license for violation of this section shall be maintained unless it is shown that his application was duly denied by the board and that he was duly notified thereof]. **The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.**

4. Licenses shall be issued [under] **pursuant to** this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued [under] **pursuant to** this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the

violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken [under] **pursuant to** this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

333.081. LICENSE RENEWAL, FEE — FAILURE TO RENEW, EFFECT — BUSINESS ADDRESS REQUIRED. — 1. Each license issued to a funeral director or embalmer [under] **pursuant to** this chapter shall expire unless renewed on or before the renewal date. The board may, however, provide for the renewal of licenses held by individuals who are not actively engaged in practice and who are over sixty-five years of age without fee. The board shall renew any such license upon due application for renewal and upon the payment of the renewal fee, except that no license shall expire during the period when the holder thereof is actively engaged in the military service of the United States. Any licensee exempted from the renewal of his **or her** license because of military service shall, before beginning practice in this state after leaving military service, apply for and pay the renewal fee for the current licensing period.

2. When renewing a funeral director's or embalmer's license the licensee shall specify the address of the funeral establishment at which he **or she** is practicing or proposes to practice and shall notify the board of any termination of his **or her** connection therewith. The licensee shall notify the board of any new employment or connection with a funeral establishment of a permanent nature. If the licensee is not employed at or connected with a funeral establishment he shall notify the board of his **or her** permanent address.

3. [The board shall not renew any license more than ninety days after the renewal date but shall notify the licensee that his license has expired.] The holder of an expired license shall be issued a new license by the board within two years of the renewal date after he **or she** has paid delinquent renewal fees. Any license not renewed within two years shall be void.

4. Failure of the licensee to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his **or her** license.

Approved July 10, 2001

HB 52 [HB 52]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits the prosecuting attorney of St. Francois County from engaging in the private practice of law.

AN ACT to repeal section 56.066, RSMo 2000, relating to full- time prosecutors, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

SECTION

- A. Enacting clause.
- 56.066. Additional compensation (certain counties) — full-time prosecutor, St. Francois County.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 56.066, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 56.066, to read as follows:

56.066. ADDITIONAL COMPENSATION (CERTAIN COUNTIES) — FULL-TIME PROSECUTOR, ST. FRANCOIS COUNTY. — **1.** In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of seven hundred and fifty persons but less than one thousand five hundred persons, the prosecuting attorney shall receive ten thousand dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of one thousand five hundred persons but less than three thousand persons, the prosecuting attorney shall receive twelve thousand five hundred dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of three thousand persons but less than four thousand persons, the prosecuting attorney shall receive fifteen thousand dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average inmate population in excess of four thousand persons, the prosecuting attorney shall receive twenty thousand dollars per annum in addition to all other compensation provided by law. The compensation provided in connection with the average inmate population shall not be considered for purposes of determining any increase in compensation from January 1, 1988. The amounts provided in this subsection shall be included in the computation of the maximum allowable compensation as that term is used in section 50.333, RSMo.

2. Notwithstanding the provisions of section 56.360, the prosecuting attorney of any county of the fourth classification, with a population of at least forty-eight thousand and not more than sixty thousand inhabitants, two correctional facilities and a state mental health center, shall devote full time to the prosecutor's office, and, except for the performance of official duties, shall not engage in the practice of law.

SECTION B. EMERGENCY CLAUSE. — Because of the need to assure efficient prosecution for violations of state law, section 56.066 is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergence act within the meaning of the constitution, and section 56.066 shall be in full force and effect upon its passage and approval.

Approved May 23, 2001

HB 78 [HB 78]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Grants immunity from civil suits to physicians' health programs for reporting information on licensees to the State Board of Registration for the Healing Arts.

AN ACT to repeal section 334.128, RSMo 2000, relating to the state board of registration for the healing arts, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

334.128. Investigation and hearings, persons participating not to be liable for civil damages, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 334.128, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 334.128, to read as follows:

334.128. INVESTIGATION AND HEARINGS, PERSONS PARTICIPATING NOT TO BE LIABLE FOR CIVIL DAMAGES, WHEN. — Any person who reports or provides information to the board, or any person who assists the board, including, but not limited to, **physicians' health programs and individuals working, consulting with or staffing such physicians' health programs approved by the board for impaired physicians**, applicants or licensees who are the subject of an investigation, physicians serving on competency panels, medical record custodians, consultants, attorneys, board members, agents, employees or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the board pursuant to the provisions of this chapter and who does so in good faith and without malice shall not be subject to an action for civil damages as a result thereof, and no cause of action [of any nature] shall arise against him **or her as a result of his or her conduct pursuant to this section**. The attorney general shall defend such persons in any such action or proceeding.

Approved July 10, 2001

HB 80 [CCS SCS HB 80]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the creation of multijurisdictional antifraud enforcement groups.

AN ACT to repeal sections 32.056, 57.010, 57.020, 57.030, 94.577, 488.5336, 544.170, 570.120, 590.100, 590.101, 590.105, 590.110, 590.112, 590.115, 590.117, 590.120, 590.121, 590.123, 590.125, 590.130, 590.131, 590.135, 590.150, 590.170, 590.175, 590.180 and 590.650, RSMo 2000, and to enact in lieu thereof forty-eight new sections relating to law enforcement, with penalty provisions and emergency clauses.

SECTION

- A. Enacting clause.
- 32.056. Confidentiality of motor vehicle or driver registration records of county, state or federal parole officers or federal pretrial officers.
- 57.010. Election — qualifications — certificate of election — sheriff to hold valid peace officer license, when.
- 57.020. Bond.
- 57.030. Reelected, new bond.
- 67.1860. Title.
- 67.1862. Definitions.
- 67.1864. District created in certain counties.
- 67.1866. Vote required to create district — petition, contents.
- 67.1868. Opposition to formation of a district, petition filed, procedure.
- 67.1870. Costs of filing to be paid by petitioners.
- 67.1872. Board of directors, members.
- 67.1874. Notice of district organization — election of board members, terms.
- 67.1876. Powers of the board, meetings, corporate seal, quorum.
- 67.1878. Use of funds, sources of funding.
- 67.1880. Property tax imposed, when — ballot language — collection of tax.
- 67.1882. Contracting, borrowing and agreement authority of the district.
- 67.1884. Limitation on district's contracting authority.
- 67.1886. Additional powers of the district.
- 67.1888. Insurance obtained by the district, types, conditions.

- 67.1890. Change in district boundaries, procedure.
 - 67.1892. Vote required for change in boundaries, when.
 - 67.1894. Termination of taxing authority by petition, procedure.
 - 67.1896. Vote required for termination of taxing authority, when — ballot language.
 - 67.1898. Dissolution of a district, procedure.
 - 70.827. Definitions.
 - 70.829. Multijurisdictional antifraud enforcement group authorized, purpose — powers exercised, when.
 - 70.831. Agreement entered into with county of another state, when.
 - 70.833. State grants available to defray costs, eligibility.
 - 94.577. Sales tax imposed in certain cities — rates of tax — election procedure — revenue to be used for capital improvements — revenue bonds, retirement — special trust fund — limitation on use of revenue by city of St. Louis — refunds authorized.
 - 488.5336. Court costs may be increased, amount, how, exceptions, deposit — additional assessment — use of funds — amount of reimbursement.
 - 544.170. Twenty hours detention on arrest without warrant — twenty-four hours detention for certain offenses, rights of confinee — violations, penalty.
 - 570.120. Crime of passing bad checks, penalty — actual notice given, when — administrative handling costs, amount, deposit in fund — use of fund — payroll checks, action, when — service charge may be collected — return of bad check to depositor by financial institution must be on condition that issuer is identifiable.
 - 590.010. Definitions.
 - 590.020. Peace officer license required, when — classes of officers established — no license required, when.
 - 590.030. Basic training, minimum standards established — age, citizenship and education requirements established by director — issuance of a license.
 - 590.040. Minimum hours of basic training required.
 - 590.050. Continuing education requirements.
 - 590.060. Minimum standards for training instructors and centers — licensure of instructors — background check required, when.
 - 590.070. Commissioning and departure of peace officers, director to be notified.
 - 590.080. Discipline of peace officers, grounds — complaint filed, hearing.
 - 590.090. Suspension of a license, when, procedure.
 - 590.100. Denial of an application, when — review process.
 - 590.100. Definitions.
 - 590.110. Investigation of denial of licensure, procedure.
 - 590.110. Certification required, when — additional hours — criminal background check — qualification.
 - 590.120. Peace officer standards and training commission established — members, qualifications, appointment — terms — duties — removal from office — vacancies — chairperson, appointment — rules and regulations, authority.
 - 590.180. Licensure status of peace officer inadmissible in determining validity of arrest — open records of peace officers.
 - 590.180. Penalty for violations employing uncertified peace officers, effect.
 - 590.190. Rulemaking authority.
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 - 590.101. Definitions (St. Louis County).
 - 590.105. Mandatory standards for basic training — limitations — variances authorized — federal officers may participate, costs — third class counties, requirement for certification — hours, credit.
 - 590.112. Sheriff's department employees, certain counties, departmental transfer, certification and training requirements.
 - 590.115. Training requirements recommended, for whom — commission may determine requirements — transfer, effect — prior training, what qualifies for — certification — continuing law enforcement education and training, participation, costs.
 - 590.117. Inactive, unemployed officers, continuing certification — expiration, costs.
 - 590.121. Director of public safety to certify training academies and core curriculum — basis for approval — rules to be published.
 - 590.123. Rules and regulations, procedure to adopt, suspend, revoke — duties of commission training standards.
 - 590.125. Training material and seminars may be provided by director — power of director to issue, suspend or revoke diplomas or certificates.
 - 590.130. Elected county peace officer or officials, certification required, exceptions — certification not admissible as evidence — participation in primary law enforcement activities prohibited, when.
 - 590.131. Director to be notified of peace officer's separation from agency.
 - 590.135. Inspection of training academies or programs — powers of director to refuse to certify training school, program, instructor or peace officer — procedure — immunity — grounds for refusal or revocation.
 - 590.150. Applicability of sections 590.100 to 590.180.
 - 590.170. Director to consult with sheriffs to develop training program for first term sheriffs.
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- 590.175. Certain sheriffs — attendance required — time of attendance — compensations and expenses.
B. Emergency clause.
C. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.056, 57.010, 57.020, 57.030, 94.577, 488.5336, 544.170, 570.120, 590.100, 590.101, 590.105, 590.110, 590.112, 590.115, 590.117, 590.120, 590.121, 590.123, 590.125, 590.130, 590.131, 590.135, 590.150, 590.170, 590.175, 590.180 and 590.650, RSMo 2000, are repealed and forty-eight new sections enacted in lieu thereof, to be known as sections 32.056, 57.010, 57.020, 57.030, 67.1860, 67.1862, 67.1864, 67.1866, 67.1868, 67.1870, 67.1872, 67.1874, 67.1876, 67.1878, 67.1880, 67.1882, 67.1884, 67.1886, 67.1888, 67.1890, 67.1892, 67.1894, 67.1896, 67.1898, 70.827, 70.829, 70.831, 70.833, 94.577, 488.5336, 544.170, 570.120, 590.010, 590.020, 590.030, 590.040, 590.050, 590.060, 590.070, 590.080, 590.090, 590.100, 590.110, 590.120, 590.180, 590.190, 590.195 and 590.650, to read as follows:

32.056. CONFIDENTIALITY OF MOTOR VEHICLE OR DRIVER REGISTRATION RECORDS OF COUNTY, STATE OR FEDERAL PAROLE OFFICERS OR FEDERAL PRETRIAL OFFICERS. — The department of revenue shall not release the home address or any other information contained in the department's motor vehicle or driver registration records regarding any person who is a county, state or federal parole officer or who is a federal pretrial officer **or who is a peace officer pursuant to section 590.100, RSMo, or a member of the parole officer's, pretrial officer's or peace officer's immediate family** based on a specific request for such information from any person. Any person who is a county, state or federal parole officer or who is a federal pretrial officer **or who is a peace officer pursuant to section 590.100, RSMo,** may notify the department of such status and the department shall protect the confidentiality of the records on such a person **and his or her immediate family** as required by this section. This section shall not prohibit the department from releasing information on a motor registration list pursuant to section 32.055 **or from releasing information on any officer who holds a class A, B or C commercial driver's license pursuant to the Motor Carrier Safety Improvement Act of 1999, as amended, 49 U.S.C. 31309.**

57.010. ELECTION — QUALIFICATIONS — CERTIFICATE OF ELECTION — SHERIFF TO HOLD VALID PEACE OFFICER LICENSE, WHEN. — **1.** At the general election to be held in 1948, and at each general election held every four years thereafter, the voters in every county in this state shall elect some suitable person sheriff. No person shall be eligible for the office of sheriff who has been convicted of a felony. Such person shall be a resident taxpayer and elector of said county, shall have resided in said county for more than one whole year next before filing for said office and shall be a person capable of efficient law enforcement. When any person shall be elected sheriff, [he] **such person** shall enter upon the discharge of the duties of [his] **such person's office as chief law enforcement officer of that county** on the first day of January next succeeding [his] **said** election.

2. Beginning January 1, 2003, any sheriff who does not hold a valid peace officer license pursuant to chapter 590, RSMo, shall refrain from personally executing any of the police powers of the office of sheriff, including but not limited to participation in the activities of arrest, detention, vehicular pursuit, search and interrogation. Nothing in this section shall prevent any sheriff from administering the execution of police powers through duly commissioned deputy sheriffs. This subsection shall not apply:

(1) During the first twelve months of the first term of office of any sheriff who is eligible to become licensed as a peace officer and who intends to become so licensed within twelve months after taking office; or

(2) To the sheriff of any county of the first classification with a charter form of government with a population over nine hundred thousand.

57.020. BOND. — Every sheriff shall, within fifteen days after he [receives the certificate of his election or appointment,] **or she is sworn into office**, give bond to the state in a sum not less than five thousand dollars nor more than fifty thousand dollars, with sureties approved by the presiding judge of the circuit court, conditioned for the faithful discharge of his duties; which bond shall be filed in the office of the clerk of the circuit court of the county.

57.030. REELECTED, NEW BOND. — Should any sheriff be reelected, he shall give a new bond and security within fifteen days from [his election:] **the date that he or she is sworn into office**; and should he **or she** fail to do so, his **or her** former sureties shall not be held liable for any business done by him after the fifteen days expire.

67.1860. TITLE. — Sections 67.1860 to 67.1898 shall be known as the "Missouri Law Enforcement District Act".

67.1862. DEFINITIONS. — As used in sections 67.1860 to 67.1898, the following terms mean:

- (1) "Approval of the required majority" or "direct voter approval", a simple majority;
- (2) "Board", the board of directors of a district;
- (3) "District", a law enforcement district organized pursuant to sections 67.1860 to 67.1898.

67.1864. DISTRICT CREATED IN CERTAIN COUNTIES. — 1. A district may be created to fund, promote, plan, design, construct, improve, maintain and operate one or more projects relating to law enforcement or to assist in such activity.

2. A district is a political subdivision of the state.

3. A district may be created in any county of the first classification without a charter form of government and a population of fifty thousand inhabitants or less.

67.1866. VOTE REQUIRED TO CREATE DISTRICT — PETITION, CONTENTS. — 1. Whenever the creation of a district is desired, ten percent of the registered voters within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of the county in which the proposed district is located.

2. The proposed district area shall be contiguous and may contain any portion of one or more municipalities.

3. The petition shall set forth:

- (1) The name and address of each owner of real property located within the proposed district or who is a registered voter resident within the proposed district;
- (2) A specific description of the proposed district boundaries including a map illustrating such boundaries;
- (3) A general description of the purpose or purposes for which the district is being formed; and
- (4) The name of the proposed district.

4. In the event any owner of real property within the proposed district who is named in the petition or any legal voter resident within the district shall not join in the petition or file an entry of appearance and waiver of service of process in the case, a copy of the petition shall be served upon said owner or legal voter in the manner provided by supreme court rule for the service of petitions generally. Any objections to the petition

shall be raised by answer within the time provided by supreme court rule for the filing of an answer to a petition.

67.1868. OPPOSITION TO FORMATION OF A DISTRICT, PETITION FILED, PROCEDURE. —

1. Any owner of real property within the proposed district and any legal voter who is a resident within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a judgment respecting these same issues.

2. The court shall hear the case without a jury. If the court determines the petition is defective or the proposed district or its plan of operation is unconstitutional, it shall enter its judgment to that effect and shall refuse to incorporate the district as requested in the pleadings. If the court determines the petition is not legally defective and the proposed district and plan of operation are not unconstitutional, the court shall determine and declare the district organized and incorporated and shall approve the plan of operation stated in the petition.

3. Any party having filed a petition or answer to a petition may appeal the circuit court's order or judgment in the same manner as provided for other appeals. Any order either refusing to incorporate the district or incorporating the district shall be a final judgment for purposes of appeal.

67.1870. COSTS OF FILING TO BE PAID BY PETITIONERS. — The costs of filing and defending the petition and all publication and incidental costs incurred in obtaining circuit court certification of the petition for voter approval shall be paid by the petitioners. If a district is organized pursuant to sections 67.1860 to 67.1898, the petitioners may be reimbursed for such costs out of the revenues received by the district.

67.1872. BOARD OF DIRECTORS, MEMBERS. — A district created pursuant to sections 67.1860 to 67.1898 shall be governed by a board of directors consisting of five members to be elected as provided in section 67.1874.

67.1874. NOTICE OF DISTRICT ORGANIZATION — ELECTION OF BOARD MEMBERS, TERMS. — 1. Within thirty days after the order declaring the district organized has become final, the circuit clerk of the county in which the petition was filed shall give notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, to call a meeting of the owners of real property and registered voters resident within the district at a day and hour specified in a public place in the county in which the petition was filed for the purpose of electing a board of five directors, two to serve one year, two to serve two years, and one to serve three years, to be composed of residents of the district.

2. The attendees, when assembled, shall organize by the election of a chairman and secretary of the meeting who shall conduct the election.

3. Each director shall serve for a term of three years and until such director's successor is duly elected and qualified. Successor directors shall be elected in the same manner as the initial directors at a meeting of the residents called by the board. Each successor director shall serve a three-year term. The remaining directors shall have the authority to elect an interim director to complete any unexpired term of a director caused by resignation or disqualification.

4. Directors shall be at least twenty-one years of age.

67.1876. POWERS OF THE BOARD, MEETINGS, CORPORATE SEAL, QUORUM. — 1. The board shall possess and exercise all of the district's legislative and executive powers.

2. Within thirty days after the election of the initial directors, the board shall meet. At its first meeting and after each election of new board members the board shall elect a chairman, a secretary, a treasurer and such other officers as it deems necessary from its members. A director may fill more than one office, except that a director may not fill both the office of chairman and secretary.

3. The board may employ such employees as it deems necessary; provided, however, that the board shall not employ any employee who is related within the third degree by blood or marriage to a member of the board.

4. At the first meeting, the board, by resolution, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal.

5. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board, and approve any board resolution.

6. Each director shall devote such time to the duties of the office as their faithful discharge may require and may be reimbursed for such director's actual expenditures in the performance of such director's duties on behalf of the district.

67.1878. USE OF FUNDS, SOURCES OF FUNDING. — A district may receive and use funds for the purposes of planning, designing, constructing, reconstructing, maintaining and operating one or more projects relating to law enforcement. Such funds may be derived from any funding method which is authorized by sections 67.1860 to 67.1898 and from any other source, including but not limited to funds from federal sources, the state of Missouri or an agency of the state, a political subdivision of the state or private sources.

67.1880. PROPERTY TAX IMPOSED, WHEN — BALLOT LANGUAGE — COLLECTION OF TAX. — 1. If approved by at least four-sevenths of the qualified voters voting on the question in the district, the district may impose a property tax in an amount not to exceed the annual rate of thirty cents on the hundred dollars assessed valuation. The district board may levy a property tax rate lower than its approved tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval. The property tax shall be uniform throughout the district.

2. The ballot of submission shall be substantially in the following form:

Shall the Law Enforcement District impose a property tax upon all real and tangible personal property within the district at a rate of not more than (insert amount) cents per hundred dollars assessed valuation for the purpose of providing revenue for the development of a project (or projects) in the district (insert general description of the project or projects, if necessary)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. The county collector of each county in which the district is partially or entirely located shall collect the property taxes and special benefit assessments made upon all real property and tangible personal property within that county and the district, in the same manner as other property taxes are collected.

4. Every county collector having collected or received district property taxes shall, on or before the fifteenth day of each month and after deducting his or her commissions, remit to the treasurer of that district the amount collected or received by him or her prior to the first day of the month. Upon receipt of such money, the district treasurer shall execute a receipt therefor, which he or she shall forward or deliver to the collector. The district treasurer shall deposit such sums into the district treasury, credited to the appropriate project or purpose. The collector and district treasurer shall make final

settlement of the district account and commissions owing, not less than once each year, if necessary.

67.1882. CONTRACTING, BORROWING AND AGREEMENT AUTHORITY OF THE DISTRICT.

— 1. A district may contract and incur obligations appropriate to accomplish its purposes.

2. A district may enter into any lease or lease-purchase agreement for or with respect to any real or personal property necessary or convenient for its purposes.

3. A district may borrow money for its purposes at such rates of interest as the district may determine.

4. A district may enter into labor agreements, establish all bid conditions, decide all contract awards, pay all contractors and generally supervise the operation of the district.

67.1884. LIMITATION ON DISTRICT'S CONTRACTING AUTHORITY. — The district may contract with a federal agency, a state or its agencies and political subdivisions, a corporation, partnership or individual regarding funding, promotion, planning, designing, constructing, improving, maintaining, or operating a project or to assist in such activity; provided, however, that any contract providing for the overall management and operation of the district shall only be with a governmental entity or a not for profit corporation.

67.1886. ADDITIONAL POWERS OF THE DISTRICT. — In addition to all other powers granted by sections 67.1860 to 67.1898 the district shall have the following general powers:

- (1) To contract with the local sheriff's department for the provision of services;
- (2) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;
- (3) To fix compensation of its employees and contractors;
- (4) To purchase any personal property necessary or convenient for its activities;
- (5) To collect and disburse funds for its activities; and
- (6) To exercise such other implied powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

67.1888. INSURANCE OBTAINED BY THE DISTRICT, TYPES, CONDITIONS. — 1. The district may obtain such insurance as it deems appropriate, considering its legal limits of liability, to protect itself, its officers and its employees from any potential liability and may also obtain such other types of insurance as it deems necessary to protect against loss of its real or personal property of any kind. The cost of this insurance shall be charged against the project.

2. The district may also require contractors performing construction or maintenance work on the project and companies providing operational and management services to obtain liability insurance having the district, its directors and employees as additional named insureds.

3. The district shall not attempt to self-insure for its potential liabilities unless it finds that it has sufficient funds available to cover any anticipated judgments or settlements and still complete its project without interruption. The district may self-insure if it is unable to obtain liability insurance coverage at a rate which is economically feasible to the district, considering its resources.

67.1890. CHANGE IN DISTRICT BOUNDARIES, PROCEDURE. — 1. The boundaries of any district organized pursuant to sections 67.1860 to 67.1898 may be changed in the manner prescribed in this section; but any change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or

charge for or upon which it might be liable or chargeable had any change of boundaries not been made.

2. The boundaries may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed or deannexed may file with the board a petition in writing praying that such real property be included within, or removed from, the district. The petition shall describe the property to be included in, or removed from, the district and shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in, or removal from, the district of the property described in the petition. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo; provided that, in the event that there are more than twenty-five property owners or taxpaying electors signing the petition, it shall be deemed sufficient description of their property in the petition as required in this section to list the addresses of such property; or

(2) All of the owners of any territory or tract of land near or adjacent to a district in the case of annexation, or all of the owners of any territory or tract of land within a district in the case of deannexation, who own all of the real estate in such territory or tract of land may file a petition with the board praying that such real property be included in, or removed from, the district. The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in, or removal from, the district of the property described in the petition.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, which notice shall recite the filing of such petition, the number of petitioners, a general description of the boundaries of the area proposed to be included or removed and the prayer of the petitioners; giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned, or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted. The failure of any person interested to show cause in writing why such petition shall not be granted shall be deemed as an assent on his or her part to the inclusion of such lands in, or removal of such lands from, the district as prayed for in the petition.

4. If the board deems it for the best interest of the district, it shall grant the petition, but if the board determines in the case of annexation that some portion of the property mentioned in the petition cannot as a practical matter be served by the district, or if it deems in the case of annexation that it is in the best interest of the district that some portion of the property in the petition not be included in the district, or if in the case of deannexation it deems that it is impracticable for any portion of the property to be deannexed from the district, then the board shall grant the petition in part only. If the petition is granted, the board shall make an order to that effect and file the petition with the circuit clerk. Upon the order of the court having jurisdiction over the district, the property shall be included in, or removed from, the district. If the petition contains the signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the property shall be included in, or removed from, the district upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed or deannexed pursuant to subdivision (1) of subsection 2 of this section, the property shall be included in, or removed from, the district subject to the election provided in section 67.1892. The circuit court having jurisdiction over the district shall proceed to make any such order including such additional property within the district, or

removing such property from the district, as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

67.1892. VOTE REQUIRED FOR CHANGE IN BOUNDARIES, WHEN. — 1. If the petition to add or remove any territory or tract of land to the district contained fewer than all of the signatures required pursuant to subdivision (2) of subsection 2 of section 67.1890, the decree of extension or retraction of boundaries shall not become final and conclusive until it has been submitted to an election of the voters residing within the boundaries described in such decree and until it has been assented to by a majority vote of the voters in the newly included area, or the area to be removed, voting on the question. The decree shall also provide for the holding of the election to vote on the proposition of extending or retracting the boundaries of the district, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall the boundaries of the Law Enforcement District be (extended to include/retracted to remove) the following described property? (Describe property)

☐ YES ☐ NO

3. If a majority of the voters voting on the proposition vote in favor of the extension or retraction of the boundaries of the district, then the court shall enter its further order declaring the decree of extension or retraction of the boundaries to be final and conclusive. In the event, however, that the court finds that a majority of the voters voting thereon voted against the proposition to extend or retract the boundaries of the district, then the court shall enter its further order declaring the decree of extension or retraction of boundaries to be void and of no effect.

67.1894. TERMINATION OF TAXING AUTHORITY BY PETITION, PROCEDURE. — 1. The authority of the district to levy any property tax levied pursuant to section 67.1880 may be terminated by a petition of the voters in the district in the manner prescribed in this section.

2. The petition for termination of authority to tax may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the district may file with the board a petition in writing praying that the district's authority to impose a property tax be terminated. The petition shall specifically state that the district's authority to impose any property tax, whether or not such a tax is being imposed at the time such petition is filed, shall be terminated. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo; or

(2) All of the owners of real estate in the district may file a petition with the board praying that the district's authority to impose a property tax be terminated. The petition shall specifically state that the district's authority to impose any property tax, whether or not such a tax is being imposed at the time such petition is filed, shall be terminated. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo. The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the petition.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, which notice shall recite the filing of such petition, the number of petitioners and the prayer of the petitioners; giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned,

or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted.

4. If the board deems it for the best interest of the district, it shall grant the petition. If the petition is granted, the board shall make an order to that effect and file the petition with the circuit clerk. If the petition contains the signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the authority to tax shall be terminated upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the district pursuant to subdivision (1) of subsection 2 of this section, the authority to tax shall be terminated subject to the election provided in section 67.1896. The circuit court having jurisdiction over the district shall proceed to make any such order terminating such taxation authority as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

67.1896. VOTE REQUIRED FOR TERMINATION OF TAXING AUTHORITY, WHEN — BALLOT LANGUAGE. — 1. If the petition filed pursuant to section 67.1894 contained fewer than all of the signatures required pursuant to subdivision (2) of subsection 2 of section 67.1894, the termination of taxation authority shall not become final and conclusive until it has been submitted to an election of the voters residing within the district and until it has been assented to by at least four-sevenths of the voters in the district voting on the question. The decree shall also provide for the holding of the election to vote on the proposition, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall the authority of the Law Enforcement District to adopt property taxes be terminated?

☐ YES ☐ NO

3. If four-sevenths of the voters voting on the proposition vote in favor of such termination, then the court shall enter its further order declaring the termination of such authority, and all such taxes that are being assessed in the current calendar year pursuant to such authority, to be final and conclusive. In the event, however, that the court finds that less than four-sevenths of the voters voting thereon voted against the proposition to terminate such authority, then the court shall enter its further order declaring the decree of termination of such district's taxing authority to be void and of no effect.

67.1898. DISSOLUTION OF A DISTRICT, PROCEDURE. — 1. Whenever a petition signed by not less than ten percent of the registered voters in any district organized pursuant to sections 67.1860 to 67.1898 is filed with the circuit court having jurisdiction over the district, setting forth all the relevant facts pertaining to the district, and alleging that the further operation of the district is not in the best interests of the inhabitants of the district, and that the district should, in the interest of the public welfare and safety, be dissolved, the circuit court shall have authority, after hearing evidence submitted on such question, to order a submission of the question, after having caused publication of notice of a hearing on such petition in the same manner as the notice required in section 67.1874, in substantially the following form:

Shall (Insert the name of the law enforcement district) Law Enforcement District be dissolved?

☐ YES ☐ NO

2. If the court shall find that it is to the best interest of the inhabitants of the district that such district be dissolved, it shall make an order reciting such finding and providing for the submission of the proposition to dissolve such district to a vote of the voters of the district, setting forth such further details in its order as may be necessary to an orderly conduct of such election. Such election shall be held at the municipal election. Returns of the election shall be certified to the court. If the court finds that a majority of the voters voting thereon shall have voted in favor of the proposition to dissolve the district, the court shall make a final order dissolving the district, and the decree shall contain a proviso that the district shall continue in full force for the purpose of paying all outstanding and lawful obligations and disposing of property of the district; but no additional costs or obligations shall be created except such as are necessary to pay such costs, obligations and liabilities previously incurred, or necessary to the winding up of the district. If the court shall find that a majority of the voters of the district voting thereon shall not have voted favorably on the proposition to dissolve such district, then the court shall make a final order declaring such result dismissing the petition praying for the dissolution of said district; and the district shall continue to operate in the same manner as though the petition asking for such dissolution has not been filed.

3. The dissolution of a district shall not invalidate or affect any right accruing to such district, or to any person, or invalidate or affect any contract or indebtedness entered into or imposed upon such district or person; and whenever the circuit court shall, pursuant to this section, dissolve a district, the court shall appoint some competent person to act as trustee for the district so dissolved and such trustee before entering upon the discharge of his or her duties shall take and subscribe an oath that he or she will faithfully discharge the duties of the office, and shall give bond with sufficient security, to be approved by the court to the use of such dissolved district, for the faithful discharge of his or her duties, and shall proceed to liquidate the district under orders of the court, including the levying of any taxes provided for in sections 67.1860 to 67.1898.

70.827. DEFINITIONS. — As used in sections 70.827 to 70.833, the following terms mean:

- (1) "Department", the department of public safety;
- (2) "Director", the director of the department of public safety;
- (3) "Multijurisdictional antifraud enforcement group", or "MAEG", a combination of political subdivisions established pursuant to sections 70.827 to 70.833.

70.829. MULTIJURISDICTIONAL ANTIFRAUD ENFORCEMENT GROUP AUTHORIZED, PURPOSE — POWERS EXERCISED, WHEN. — 1. Any two or more political subdivisions or the state highway patrol and any two or more political subdivisions may by order or ordinance agree to cooperate with one another in the formation of a multijurisdictional antifraud enforcement group for the purpose of intensive professional investigation of fraudulent activities.

2. The power of arrest of any peace officer who is duly authorized as a member of a MAEG unit shall only be exercised during the time such peace officer is an active member of a MAEG unit and only within the scope of the investigation on which the unit is working. Notwithstanding other provisions of law to the contrary, such officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of the municipality in which the investigation is to take place or the sheriff of the county if the investigation is to be made in his or her venue. The chief of police or sheriff may elect to work with the MAEG unit at his or her option when such MAEG is operating within the jurisdiction of such chief of police or sheriff.

70.831. AGREEMENT ENTERED INTO WITH COUNTY OF ANOTHER STATE, WHEN. — 1. A county bordering another state may enter into agreement with the political subdivisions in such other state's contiguous county pursuant to section 70.220, to form a multijurisdictional antifraud enforcement group for the enforcement of antifraud laws and work in cooperation pursuant to sections 70.827 to 70.833.

2. Such other state's law enforcement officers may be deputized as officers of the counties of this state participating in an agreement pursuant to subsection 1 of this section, and shall be deemed to have met all requirements of peace officer training and certification pursuant to chapter 590, RSMo, for the purposes of conducting investigations and making arrests in this state pursuant to the provisions of section 70.829, provided such officers have satisfied the applicable peace officer training and certification standards in force in such other state.

3. Such other state's law enforcement officers shall have the same powers and immunities when working under an agreement pursuant to subsection 1 of this section as if working under an agreement with another political subdivision in Missouri pursuant to section 70.815.

4. A multijurisdictional antifraud enforcement group formed pursuant to this section is eligible to receive state grants to help defray the costs of its operation pursuant to the terms of section 70.833.

5. The provisions of subsections 2, 3 and 4 of this section shall not be in force unless such other state has provided or shall provide legal authority for its political subdivisions to enter into such agreements and to extend reciprocal powers and privileges to the law enforcement officers of this state working pursuant to such agreements.

70.833. STATE GRANTS AVAILABLE TO DEFRAY COSTS, ELIGIBILITY. — 1. A multijurisdictional antifraud enforcement group which meets the minimum criteria established in this section is eligible to receive state grants to help defray the costs of operation.

2. To be eligible for state grants, a MAEG shall:

(1) Be established and operating pursuant to intergovernmental contracts written and executed in conformity by law, and involve two or more units of local government;

(2) Establish a MAEG policy board composed of an elected official, or a designee, and the chief law enforcement officer from each participating unit of local government to oversee the operations of the MAEG and make such reports to the department of public safety as the department may require;

(3) Designate a single appropriate official of a participating unit of local government to act as the financial officer of the MAEG for all participating units of the local government and to receive funds for the operation of the MAEG;

(4) Limit its target operation to enforcement of antifraud laws;

(5) Cooperate with the department of public safety in order to assure compliance with sections 70.827 to 70.833 and to enable the department to fulfill its duties pursuant to sections 70.827 to 70.833 and supply the department with all information the department deems necessary therefor.

3. The department of public safety shall monitor the operations of all MAEG units which receive state grants. From the moneys appropriated annually, if funds are made available by the general assembly for this purpose, the director shall determine and certify to the auditor the amount of the grant to be made to each designated MAEG financial officer. No provision of this section shall prohibit funding of multijurisdictional antifraud enforcement groups by sources other than those provided by the general assembly, if such funding is in accordance with and in such a manner as provided by law.

4. The director shall report annually, no later than January first of each year, to the governor and the general assembly on the operations of the multijurisdictional antifraud

enforcement groups, including a breakdown of the appropriation for the current fiscal year indicating the amount of the state grant each MAEG received or will receive.

94.577. SALES TAX IMPOSED IN CERTAIN CITIES — RATES OF TAX — ELECTION PROCEDURE — REVENUE TO BE USED FOR CAPITAL IMPROVEMENTS — REVENUE BONDS, RETIREMENT — SPECIAL TRUST FUND — LIMITATION ON USE OF REVENUE BY CITY OF ST. LOUIS — REFUNDS AUTHORIZED. — 1. The governing body of any municipality except those located in whole or in part within any first class county having a charter form of government and not containing any part of a city with a population of four hundred thousand or more and adjacent to a city not within a county for that part of the municipality located within such first class county is hereby authorized to impose, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half of one percent sales tax on all retail sales made in such municipality which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of funding capital improvements, including the operation and maintenance of capital improvements, which may be funded by issuing bonds which will be retired by the revenues received from the sales tax authorized by this section or the retirement of debt under previously authorized bonded indebtedness. A municipality located in a charter county may impose a sales tax on all retail sales for capital improvements as provided in section 94.890. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; but no ordinance imposing a sales tax under the provisions of this section shall be effective unless the governing body of the municipality submits to the voters of the municipality, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the municipality to impose such tax and, if such tax is to be used to retire bonds authorized under this section, to authorize such bonds and their retirement by such tax, or to authorize the retirement of debt under previously authorized bonded indebtedness.

2. The ballot of submission shall contain, but need not be limited to:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) impose a sales tax of (insert amount) for the purpose of funding capital improvements which may include the retirement of debt under previously authorized bonded indebtedness?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"; or

(2) If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) issue bonds in the amount of (insert amount) to fund capital improvements and impose a sales tax of (insert amount) to repay bonds?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, including when the proposal authorizes the reduction of debt under previously authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality shall have no power to issue any bonds or impose the sales tax authorized in this section unless and until the governing body of the municipality shall again have submitted another proposal to authorize the governing body of the

municipality to issue any bonds or impose the sales tax authorized by this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section, **except that any municipality with a population of greater than four hundred thousand and located within more than one county may submit a proposal pursuant to this section to the voters sooner than twelve months from the date of the last proposal submitted pursuant to this section if submitted to the voters on or before November 6, 2001.**

3. All revenue received by a municipality from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for capital improvements, including the operation and maintenance of capital improvements, for so long as the tax shall remain in effect. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with revenues raised by the tax authorized by this section. Any funds in the special trust fund required by this subsection which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have not been imposed to retire bonds issued pursuant to this section.

4. All revenue received by a municipality which issues bonds under this section and imposes the tax authorized by this section to retire such bonds shall be deposited in a special trust fund and shall be used solely to retire such bonds, except to the extent that such funds are required for the operation and maintenance of capital improvements. Once all of such bonds have been retired, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with the revenue received as a result of the issuance of such bonds. Any funds in the special trust fund required by this subsection which are not needed to meet current obligations under the bonds issued under this section may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have been imposed to retire bonds issued under this section.

5. After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax in the same manner as provided in sections 94.500 to 94.570, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed pursuant to this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. No tax imposed pursuant to this section for the purpose of retiring bonds issued under this section may be terminated until all of such bonds have been retired.

7. In any city not within a county, no tax shall be imposed pursuant to this section for the purpose of funding in whole or in part the construction, operation or maintenance of a sports stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility or anything incidental or necessary to a complex suitable for any type of professional sport or recreation, either upon, above or below the ground.

8. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such municipalities. If any municipality abolishes the tax, the municipality shall notify the

director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such municipality, the director of revenue shall remit the balance in the account to the municipality and close the account of that municipality. The director of revenue shall notify each municipality of each instance of any amount refunded or any check redeemed from receipts due the municipality.

488.5336. COURT COSTS MAY BE INCREASED, AMOUNT, HOW, EXCEPTIONS, DEPOSIT — ADDITIONAL ASSESSMENT — USE OF FUNDS — AMOUNT OF REIMBURSEMENT. — 1. A surcharge of two dollars may be assessed as costs in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by the municipal government where the violation occurred. Any such surcharge shall be authorized by the county or municipality and written notice given to the supreme court of such authorization prior to December first of the year preceding the state fiscal year during which such surcharge is to be collected and disbursed in the manner provided by sections 488.010 to 488.020. If imposed by a municipality, such surcharges shall be collected by the clerk of the municipal court responsible for collecting court costs and fines and shall be transmitted monthly to the treasurer of the municipality where the violation occurred in cases of violations of municipal ordinances. If imposed by a county, such surcharges shall be collected and disbursed as provided in sections 488.010 to 488.020. Such surcharges shall be payable to the treasurer of the county where the violation occurred in the case of violations of the general criminal laws of the state or county ordinances. [An additional] **Without regard to whether the aforementioned surcharge is assessed, a** surcharge in the amount of one dollar shall be assessed as provided in this section, and shall be collected and disbursed as provided in sections 488.010 to 488.020 and payable to the state treasury to the credit of the peace officer standards and training commission fund created in section 590.178, RSMo. Such surcharges shall be in addition to the court costs and fees and limits on such court costs and fees established by section 66.110, RSMo, and section 479.260, RSMo.

2. Each county and municipality shall use all funds received under this section only to pay for the training required as provided in sections 590.100 to 590.180, RSMo, or for the training of county coroners and their deputies **provided that any excess funds not allocated to pay for such training may be used to pay for additional training of peace officers or for training of other law enforcement personnel employed or appointed by the county or municipality.** No county or municipality shall retain more than one thousand five hundred dollars of such funds for each certified law enforcement officer, candidate for certification employed by that agency or a coroner and the coroner's deputies. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipality treasury which assessed the costs.

544.170. TWENTY HOURS DETENTION ON ARREST WITHOUT WARRANT — TWENTY-FOUR HOURS DETENTION FOR CERTAIN OFFENSES, RIGHTS OF CONFINEE — VIOLATIONS, PENALTY. — 1. **Except as provided in subsection 2 of this section,** all persons arrested and confined in any jail[, calaboose] or other place of confinement by any peace officer, without warrant or other process, for any alleged breach of the peace or other criminal offense,

or on suspicion thereof, shall be discharged from said custody within twenty hours from the time of such arrest, unless they shall be charged with a criminal offense by the oath of some credible person, and be held by warrant to answer to such offense[; and every such person shall, while so confined, be permitted at all reasonable hours during the day to consult with counsel or other persons in his behalf; and any person or officer who shall violate the provisions of this section, by refusing to release any person who shall be entitled to such release, or by refusing to permit him to see and consult with counsel or other persons, or who shall transfer any such prisoner to the custody or control of another, or to another place, or prefer against such person a false charge, with intent to avoid the provisions of this section, shall be deemed guilty of a misdemeanor].

2. Upon a determination by the commanding officer, or the delegate thereof, of the law enforcement agency making such an arrest, a person arrested for any of the following offenses without warrant or other process of law, shall be released from custody within twenty-four hours of arrest, unless the person is charged and held pursuant to a warrant to answer for such offense:

- (1) First degree murder pursuant to section 565.020, RSMo;
- (2) Second degree murder pursuant to section 565.021, RSMo;
- (3) First degree assault pursuant to section 565.050, RSMo;
- (4) Forcible rape pursuant to section 566.030, RSMo;
- (5) Forcible sodomy pursuant to section 566.060, RSMo;
- (6) First degree robbery pursuant to section 569.020, RSMo; or
- (7) Distribution of drugs pursuant to section 195.211, RSMo.

3. In any confinement to which the provisions of this section apply, the confinee shall be permitted at any reasonable time to consult with counsel or other persons acting on the confinee's behalf.

4. Any person who violates the provisions of this section, by refusing to release any person who is entitled to release pursuant to this section, or by refusing to permit a confinee to consult with counsel or other persons, or who transfers any such confinees to the custody or control of another, or to another place, or who falsely charges such person, with intent to avoid the provisions of this section, is guilty of a class A misdemeanor.

570.120. CRIME OF PASSING BAD CHECKS, PENALTY — ACTUAL NOTICE GIVEN, WHEN — ADMINISTRATIVE HANDLING COSTS, AMOUNT, DEPOSIT IN FUND — USE OF FUND — PAYROLL CHECKS, ACTION, WHEN — SERVICE CHARGE MAY BE COLLECTED — RETURN OF BAD CHECK TO DEPOSITOR BY FINANCIAL INSTITUTION MUST BE ON CONDITION THAT ISSUER IS IDENTIFIABLE. — 1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, [he] **the person** makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) [He] **The person** makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in [his] **that** account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, actual notice in writing means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is one hundred fifty dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action [under] **pursuant to** the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. **For checks of one hundred dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed fifty dollars total.** Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county.

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the issuer a reasonable service charge along with the face amount of the check.

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

590.010. DEFINITIONS. — As used in this chapter, the following terms mean:

(1) "Commission", when not obviously referring to the POST commission, means a grant of authority to act as a peace officer;

(2) "Director", the director of the Missouri department of public safety or his or her designated agent or representative;

(3) "Peace officer", a law enforcement officer of the state or any political subdivision of the state with the power of arrest for a violation of the criminal code or declared or deemed to be a peace officer by state statute;

(4) "POST commission", the peace officer standards and training commission;

(5) "Reserve peace officer", a peace officer who regularly works less than thirty hours per week.

590.020. PEACE OFFICER LICENSE REQUIRED, WHEN — CLASSES OF OFFICERS ESTABLISHED — NO LICENSE REQUIRED, WHEN. — 1. No person shall hold a commission as a peace officer without a valid peace officer license.

2. The director shall establish various classes of peace officer license and may provide that certain classes are not valid for commission within counties of certain classifications, by certain state agencies, or for commission as other than a reserve peace officer with police powers restricted to the commissioning political subdivision.

3. Notwithstanding any other provision of this chapter, no license shall be required:

(1) Of any person who has no power of arrest;

(2) To seek or hold an elected county office, subject to such requirements as chapter 57, RSMo, may impose;

(3) To be commissioned pursuant to section 64.335, RSMo, as a park ranger not carrying a firearm;

(4) To be commissioned as a peace officer by a political subdivision having less than four full-time paid peace officers or a population less than two thousand, provided that such commission was in effect on the effective date of this section and continually since that date, and provided that this exception shall not apply to any commission within a county of the first class having a charter form of government;

(5) Of any reserve officer continually holding the same commission since August 15, 1988; or

(6) For any person continually holding any commission as a full-time peace officer since December 31, 1978.

4. Any political subdivision or law enforcement agency may require its peace officers to meet standards more stringent than those required for licensure pursuant to this chapter.

590.030. BASIC TRAINING, MINIMUM STANDARDS ESTABLISHED — AGE, CITIZENSHIP AND EDUCATION REQUIREMENTS ESTABLISHED BY DIRECTOR — ISSUANCE OF A LICENSE. — 1. The POST commission shall establish minimum standards for the basic training of peace officers. Such standards may vary for each class of license established pursuant to subsection 2 of section 590.020.

2. The director shall establish minimum age, citizenship, and general education requirements and may require a qualifying score on a certification examination as conditions of eligibility for a peace officer license.

3. The director shall provide for the licensure, with or without additional basic training, of peace officers possessing credentials by other states or jurisdictions, including federal and military law enforcement officers.

4. The director shall establish a procedure for obtaining a peace officer license and shall issue the proper license when the requirements of this chapter have been met.

5. As conditions of licensure, all licensed peace officers shall:

(1) Obtain continuing law enforcement education pursuant to rules to be promulgated by the POST commission; and

(2) Maintain a current address of record on file with the director.

6. A peace officer license shall automatically expire if the licensee fails to hold a commission as a peace officer for a period of five consecutive years, provided that the POST commission shall provide for the relicensure of such persons and may require retraining as a condition of eligibility for relicensure, and provided that the director may provide for the continuing licensure, subject to restrictions, of persons who hold and exercise a law enforcement commission requiring a peace officer license but not meeting the definition of a peace officer pursuant to this chapter.

590.040. MINIMUM HOURS OF BASIC TRAINING REQUIRED. — 1. The POST commission shall set the minimum number of hours of basic training for licensure as a peace officer no lower than four hundred seventy and no higher than six hundred, with the following exceptions:

(1) Up to one thousand hours may be mandated for any class of license required for commission by a state law enforcement agency;

(2) As few as one hundred twenty hours may be mandated for any class of license restricted to commission as a reserve peace officer with police powers limited to the commissioning political subdivision;

(3) Persons validly licensed on August 28, 2001, may retain licensure without additional basic training;

(4) Persons licensed and commissioned within a county of the third classification before July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the commissioning political subdivision has adopted an order or ordinance to that effect; and

(5) The POST commission shall provide for the recognition of basic training received at law enforcement training centers of other states, the military, the federal government and territories of the United States regardless of the number of hours included in such training and shall have authority to require supplemental training as a condition of eligibility for licensure.

2. The director shall have the authority to limit any exception provided in subsection 1 of this section to persons remaining in the same commission or transferring to a commission in a similar jurisdiction.

3. The basic training of every peace officer, except agents of the conservation commission, shall include at least thirty hours of training in the investigation and management of cases involving domestic and family violence. Such training shall include instruction, specific to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse, child fatalities and child neglect; interviewing children and alleged perpetrators; the nature, extent and causes of domestic and family violence; the safety of victims, other family and household members and investigating officers; legal rights and remedies available to victims, including rights to compensation and the enforcement of civil and criminal remedies; services available to victims and their children; the effects of cultural, racial and gender bias in law enforcement; and state statutes. Said curriculum shall be developed and presented in consultation with the department of health, the division of family services, public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence.

590.050. CONTINUING EDUCATION REQUIREMENTS. — 1. The POST commission shall establish requirements for the continuing education of all peace officers. Peace officers who make traffic stops shall be required to receive annual training concerning the prohibition against racial profiling and such training shall promote understanding and

respect for racial and cultural differences and the use of effective, non-combative methods for carrying out law enforcement duties in a racially and culturally diverse environment.

2. The director shall license continuing education providers and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision of the director pursuant to this subsection may appeal as provided in chapter 536, RSMo.

3. The costs of continuing law enforcement education shall be reimbursed in part by moneys from the peace officer standards and training commission fund created in section 590.178, subject to availability of funds, except that no such funds shall be used for the training of any person not actively commissioned or employed by a county or municipal law enforcement agency.

4. The director may engage in any activity intended to further the professionalism of peace officers through training and education, including the provision of specialized training through the department of public safety.

590.060. MINIMUM STANDARDS FOR TRAINING INSTRUCTORS AND CENTERS — LICENSURE OF INSTRUCTORS — BACKGROUND CHECK REQUIRED, WHEN. — 1. The POST commission shall establish minimum standards for training instructors and training centers, and the director shall establish minimum qualifications for admittance into a basic training course.

2. The director shall license training instructors, centers, and curricula, and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision pursuant to this subsection may appeal as provided in chapter 536, RSMo.

3. Each person seeking entrance into a basic training program shall submit a fingerprint card and authorization for a criminal history background check to include the records of the Federal Bureau of Investigation to the training center where such person is seeking entrance. The training center shall cause a criminal history background check to be made and shall cause the resulting report to be forwarded to the director. The person seeking entrance may be charged a fee for the cost of this procedure.

590.070. COMMISSIONING AND DEPARTURE OF PEACE OFFICERS, DIRECTOR TO BE NOTIFIED. — 1. The chief executive officer of each law enforcement agency shall, within thirty days after commissioning any peace officer, notify the director on a form to be adopted by the director. The director may require the chief executive officer to conduct a current criminal history background check and to forward the resulting report to the director.

2. The chief executive officer of each law enforcement agency shall, within thirty days after any licensed peace officer departs from employment or otherwise ceases to be commissioned, notify the director on a form to be adopted by the director. Such notice shall state the circumstances surrounding the departure from employment or loss of commission and shall specify any of the following that apply:

(1) The officer failed to meet the minimum qualifications for commission as a peace officer;

(2) The officer violated municipal, state or federal law;

(3) The officer violated the regulations of the law enforcement agency; or

(4) The officer was under investigation for violating municipal, state or federal law, or for gross violations of the law enforcement agency regulations.

3. Whenever the chief executive officer of a law enforcement agency has reasonable grounds to believe that any peace officer commissioned by the agency is subject to discipline pursuant to section 590.080, the chief executive officer shall report such knowledge to the director.

590.080. DISCIPLINE OF PEACE OFFICERS, GROUNDS — COMPLAINT FILED, HEARING.

— 1. The director shall have cause to discipline any peace officer licensee who:

- (1) Is unable to perform the functions of a peace officer with reasonable competency or reasonable safety as a result of a mental condition, including alcohol or substance abuse;
- (2) Has committed any criminal offense, whether or not a criminal charge has been filed;
- (3) Has committed any act while on active duty or under color of law that involves moral turpitude or a reckless disregard for the safety of the public or any person;
- (4) Has caused a material fact to be misrepresented for the purpose of obtaining or retaining a peace officer commission or any license issued pursuant to this chapter;
- (5) Has violated a condition of any order of probation lawfully issued by the director; or
- (6) Has violated a provision of this chapter or a rule promulgated pursuant to this chapter.

2. When the director has knowledge of cause to discipline a peace officer license pursuant to this section, the director may cause a complaint to be filed with the administrative hearing commission, which shall conduct a hearing to determine whether the director has cause for discipline, and which shall issue findings of fact and conclusions of law on the matter. The administrative hearing commission shall not consider the relative severity of the cause for discipline or any rehabilitation of the licensee or otherwise impinge upon the discretion of the director to determine appropriate discipline when cause exists pursuant to this section.

3. Upon a finding by the administrative hearing commission that cause to discipline exists, the director shall, within thirty days, hold a hearing to determine the form of discipline to be imposed and thereafter shall probate, suspend, or permanently revoke the license at issue. If the licensee fails to appear at the director's hearing, this shall constitute a waiver of the right to such hearing.

4. Notice of any hearing pursuant to this chapter or section may be made by certified mail to the licensee's address of record pursuant to subdivision (2) of subsection 3 of section 590.130. Proof of refusal of the licensee to accept delivery or the inability of postal authorities to deliver such certified mail shall be evidence that required notice has been given. Notice may be given by publication.

5. Nothing contained in this section shall prevent a licensee from informally disposing of a cause for discipline with the consent of the director by voluntarily surrendering a license or by voluntarily submitting to discipline.

6. The provisions of chapter 621, RSMo, and any amendments thereto, except those provisions or amendments that are in conflict with this chapter, shall apply to and govern the proceedings of the administrative hearing commission and pursuant to this section the rights and duties of the parties involved.

590.090. SUSPENSION OF A LICENSE, WHEN, PROCEDURE. — 1. The director shall have cause to suspend immediately the peace officer license of any licensee who:

- (1) Is under indictment for, is charged with, or has been convicted of the commission of any felony;
- (2) Is subject to an order of another state, territory, the federal government, or any peace officer licensing authority suspending or revoking a peace officer license or certification; or
- (3) Presents a clear and present danger to the public health or safety if commissioned as a peace officer.

2. At any time after the filing of a disciplinary complaint pursuant to section 590.080, if the director determines that probable cause exists to suspend immediately the peace

officer license of the subject of the complaint, the director may, without notice or hearing, issue an emergency order suspending such license until final determination of the disciplinary complaint. Such order shall state the probable cause for the suspension and shall be served upon the licensee by certified mail at the licensee's address of record pursuant to subdivision (2) of subsection 3 of section 590.130. Proof of refusal of the licensee to accept delivery or the inability of postal authorities to deliver such certified mail shall be evidence that required notice has been given. The director shall also notify the chief executive officer of any law enforcement agency currently commissioning the officer. The director shall have authority to dissolve an emergency order of suspension at any time for any reason.

3. A licensee subject to an emergency order of suspension may petition the administrative hearing commission for review of the director's determination of probable cause, in which case the administrative hearing commission shall within five business days conduct an emergency hearing, render its decision, and issue findings of fact and conclusions of law. Sworn affidavits or depositions shall be admissible on the issue of probable cause and may be held sufficient to establish probable cause. The administrative hearing commission shall have no authority to stay or terminate an emergency order of suspension without a hearing pursuant to this subsection. Findings and conclusions made in determining probable cause for an emergency suspension shall not be binding on any party in any proceeding pursuant to section 590.080.

4. Any party aggrieved by a decision of the administrative hearing commission pursuant to this section may appeal to the circuit court of Cole County as provided in section 536.100, RSMo.

590.100. DENIAL OF AN APPLICATION, WHEN — REVIEW PROCESS. — 1. The director shall have cause to deny any application for a peace officer license or entrance into a basic training course when the director has knowledge that would constitute cause to discipline the applicant if the applicant were licensed.

2. When the director has knowledge of cause to deny an application pursuant to this section, the director may grant the application subject to probation or may deny the application. The director shall notify the applicant in writing of the reasons for such action and of the right to appeal pursuant to this section.

3. Any applicant aggrieved by a decision of the director pursuant to this section may appeal within thirty days to the administrative hearing commission, which shall conduct a hearing to determine whether the director has cause for denial, and which shall issue findings of fact and conclusions of law on the matter. The administrative hearing commission shall not consider the relative severity of the cause for denial or any rehabilitation of the applicant or otherwise impinge upon the discretion of the director to determine whether to grant the application subject to probation or deny the application when cause exists pursuant to this section. Failure to submit a written request for a hearing to the administrative hearing commission within thirty days after a decision of the director pursuant to this section shall constitute a waiver of the right to appeal such decision.

4. Upon a finding by the administrative hearing commission that cause for denial exists, the director shall not be bound by any prior action on the matter and shall, within thirty days, hold a hearing to determine whether to grant the application subject to probation or deny the application. If the licensee fails to appear at the director's hearing, this shall constitute a waiver of the right to such hearing.

5. The provisions of chapter 621, RSMo, and any amendments thereto, except those provisions or amendments that are in conflict with this chapter, shall apply to and govern the proceedings of the administrative hearing commission pursuant to this section and the rights and duties of the parties involved.

[590.100. DEFINITIONS. — As used in sections 590.100 to 590.180, the following terms mean:

(1) "Certified training academy", any academy located within the state of Missouri which has been certified by the director to provide training programs for peace officers in this state;

(2) "Chief executive officer", the chief of police, director of public safety, sheriff, department head or chief administrator of any law enforcement or public safety agency of the state or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state or for violation of ordinances of a county or municipality;

(3) "Director", the director of the Missouri department of public safety;

(4) "Peace officer", members of the state highway patrol, all state, county, and municipal law enforcement officers possessing the duty and power of arrest for violation of any criminal laws of the state or for violation of ordinances of counties or municipalities of the state who serve full time, with pay;

(5) "Reserve officer", any person who serves in a less than full-time law enforcement capacity, with or without pay, and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty. In a county of the first class adjoining a city not within a county, reserve peace officers may engage in all nonprimary enforcement activities without being under direct or immediate accompaniment of a certified peace officer.]

590.110. INVESTIGATION OF DENIAL OF LICENSURE, PROCEDURE. — 1. The director may investigate any cause for the discipline of any license or denial of any application pursuant to this chapter. During the course of such investigation, the director shall have the power to inspect any training center, require by subpoena the attendance and sworn deposition of any witness and the production of any documents, records, or evidence that the director deems relevant. Subpoenas shall be served by a person authorized to serve subpoenas of courts of record. In lieu of the production of any document or record, the director may require that a sworn copy of such document or record be delivered to the director.

2. The director may apply to the circuit court of Cole County or of any county where the person resides or may be found for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced. A show cause order and a copy of the application shall be served upon the person in the same manner as a summons in a civil action. If, after a hearing, the circuit court determines that the subpoena should be enforced, the court shall proceed to enforce the subpoena in the same manner as in a civil case.

[590.110. CERTIFICATION REQUIRED, WHEN — ADDITIONAL HOURS — CRIMINAL BACKGROUND CHECK — QUALIFICATION. — 1. No person shall be appointed as a peace officer by any public law enforcement agency, which is possessed of the duty and power to enforce the general criminal laws of the state or the ordinances of any political subdivision of this state, unless he has been certified by the director as provided in sections 590.100 to 590.180, unless he is appointed on a probationary basis, and the hiring agency, within one year after his initial appointment, takes all necessary steps to qualify him for certification by the director. Unless a peace officer is certified within the one-year period after appointment, his appointment shall be terminated and he shall not be eligible for appointment by any other law enforcement agency as a peace officer. Beginning on August 28, 1995, peace officers shall be required to complete the four hundred fifty hours of training as peace officers and be certified to be eligible for employment.

2. The chief executive officer of each law enforcement agency shall notify the director of the appointment of any peace or reserve officer not later than thirty days after the date of the

appointment and include with such notification a copy of a fingerprint card verified by the Missouri state highway patrol pertaining to the results of a criminal background check of the officer appointed and evidence of the completion of the standards necessary for employment as provided in sections 590.100 to 590.180.

3. Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a reserve officer; however, any person who serves as a reserve officer in any public law enforcement agency which is possessed of the duty and power to enforce the general criminal laws of this state or the ordinances of any political subdivision of this state may, at the option of the political subdivision in which the reserve officer is appointed, participate in the basic training program required under the provisions of sections 590.100 to 590.180, and, upon completion of such training program, shall be certified by the director in the same manner as provided for peace officers.]

590.120. PEACE OFFICER STANDARDS AND TRAINING COMMISSION ESTABLISHED — MEMBERS, QUALIFICATIONS, APPOINTMENT — TERMS — DUTIES — REMOVAL FROM OFFICE — VACANCIES — CHAIRPERSON, APPOINTMENT — RULES AND REGULATIONS, AUTHORITY. — 1. There is hereby established within the department of public safety a "Peace Officer Standards and Training Commission" which shall be composed of nine members, including a voting public member, appointed by the governor, by and with the advice and consent of the senate, from a list of qualified candidates submitted to the governor by the director of the department of public safety. No member of the **POST** commission shall reside in the same congressional district as any other at the time of their appointments but this provision shall not apply to the public member. Three members of the **POST** commission shall be police chiefs, three members [of the commission] shall be sheriffs, one member [of the commission] shall represent a state law enforcement agency covered by the provisions of [sections 590.100 to 590.180] **this chapter**, and one member shall be a chief executive officer of a certified training academy. The public member shall be at the time of appointment a registered voter; a person who is not and never has been a member of any profession certified or regulated under this chapter or the spouse of such person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by [sections 590.100 to 590.180] **this chapter**, or an activity or organization directly related to any profession certified or regulated under [sections 590.100 to 590.180] **this chapter**. Each member of the **POST** Commission shall have been at the time of his appointment a citizen of the United States and a resident of this state for a period of at least one year, and members who are peace officers shall be qualified as established by [sections 590.100 to 590.180] **this chapter**. No member of the **POST** commission serving a full term of three years may be reappointed to the **POST** commission until at least one year after the expiration of his most recent term.

2. Three of the original members of the **POST** commission shall be appointed for terms of one year, three of the original members shall be appointed for terms of two years, and three of the original members shall be appointed for terms of three years. Thereafter the terms of the members of the **POST** commission shall be for three years or until their successors are appointed. The director may remove any member of the **POST** commission for misconduct or neglect of office. Any member of the **POST** commission may be removed for cause by the director but such member shall first be presented with a written statement of the reasons thereof, and shall have a hearing before the **POST** commission if the member so requests. Any vacancy in the membership of the commission shall be filled by appointment for the unexpired term.

3. Annually the director shall appoint one of the members as chairperson. The **POST** commission shall meet at least twice each year as determined by the director or a majority of the members to perform its duties. A majority of the members of the **POST** commission shall constitute a quorum.

4. No member of the **POST** commission shall receive any compensation for the performance of his official duties.

5. The **POST** commission shall [establish the core curriculum and shall also formulate definitions, rules and regulations for the administration of peace officer standards and training and] guide and advise the director concerning duties [as outlined by sections 590.100 to 590.180. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo] pursuant to this chapter.

590.180. LICENSURE STATUS OF PEACE OFFICER INADMISSIBLE IN DETERMINING VALIDITY OF ARREST — OPEN RECORDS OF PEACE OFFICERS. — 1. No arrest shall be deemed unlawful solely because of the licensure status of a peace officer, and evidence on the question cannot be received in any civil or criminal case.

2. The name, licensure status, and commissioning or employing law enforcement agency, if any, of applicants and licensees pursuant to this chapter shall be an open record. All other records retained by the director pertaining to any applicant or licensee shall be confidential and shall not be disclosed to the public or any member of the public, except with written consent of the person or entity whose records are involved, provided, however, that the director may disclose such information in the course of voluntary interstate exchange of information, during the course of litigation involving the director, to other state agencies, or, upon a final determination of cause to discipline, to law enforcement agencies. No closed record conveyed to the director pursuant to this chapter shall lose its status as a closed record solely because it is retained by the director. Nothing in this section shall be used to compel the director to disclose any record subject to attorney-client privilege or work-product privilege.

3. In any investigation, hearing, or other proceeding pursuant to this chapter, any record relating to any applicant or licensee shall be discoverable by the director and shall be admissible into evidence, regardless of any statutory or common law privilege or the status of any record as open or closed, including records in criminal cases whether or not a sentence has been imposed. No person or entity shall withhold records or testimony bearing upon the fitness to be commissioned as a peace officer of any applicant or licensee on the ground of any privilege involving the applicant or licensee, with the exception of attorney-client privilege.

4. Any person or entity submitting information to the director pursuant to this chapter and doing so in good faith and without negligence shall be immune from all criminal and civil liability arising from the submission of such information and no cause of action of any nature shall arise against such person.

5. No person shall make any unauthorized use of any testing materials or certification examination administered pursuant to subsection 2 of section 590.030.

[590.180. PENALTY FOR VIOLATIONS EMPLOYING UNCERTIFIED PEACE OFFICERS, EFFECT. — 1. Any person who purposely violates any of the provisions of section 590.110, 590.115 or 590.175 is guilty of a class B misdemeanor.

2. Any law enforcement agency which employs a peace officer who is not certified as required by sections 590.100 to 590.180 or who is otherwise in violation of any provision of sections 590.100 to 590.180 shall not be eligible to receive state or federal funds which would otherwise be paid to it for purposes of training and certifying peace officers or for other law enforcement, safety or criminal justice purposes.]

590.190. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general

assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

590.195. VIOLATIONS, PENALTY. — 1. A person commits a class B misdemeanor if, in violation of this chapter, such person knowingly:

(1) Holds a commission as a peace officer without a peace officer license valid for such commission; or

(2) Grants or continues the commission of a peace officer not validly licensed for such commission.

2. Any person who purposely violates any other provision of this chapter shall be guilty of a class B misdemeanor.

3. Any law enforcement agency that commissions a peace officer in violation of this chapter or that is otherwise in violation of any provision of this chapter shall not be eligible to receive state or federal funds that would otherwise be paid to it for the purpose of training and licensing peace officers or for any other law enforcement, safety, or criminal justice purpose.

590.650. RACIAL PROFILING — MINORITY GROUP DEFINED — REPORTING REQUIREMENTS — ANNUAL REPORT — REVIEW OF FINDINGS — FAILURE TO COMPLY — FUNDS FOR AUDIO-VISUAL EQUIPMENT. — 1. As used in this section "minority group" means individuals of African, Hispanic, Native American or Asian descent.

2. Each time a peace officer stops a driver of a motor vehicle for a violation of any motor vehicle statute or ordinance, that officer shall report the following information to the law enforcement agency that employs the officer:

(1) The age, gender and race or minority group of the individual stopped;

(2) The traffic violation or violations alleged to have been committed that led to the stop;

(3) Whether a search was conducted as a result of the stop;

(4) If a search was conducted, whether the individual consented to the search, the probable cause for the search, whether the person was searched, whether the person's property was searched, and the duration of the search;

(5) Whether any contraband was discovered in the course of the search and the type of any contraband discovered;

(6) Whether any warning or citation was issued as a result of the stop;

(7) If a warning or citation was issued, the violation charged or warning provided;

(8) Whether an arrest was made as a result of either the stop or the search;

(9) If an arrest was made, the crime charged; and

(10) The location of the stop.

Such information may be reported using a format determined by the department of public safety which uses existing citation and report forms.

3. (1) Each law enforcement agency shall compile the data described in subsection 2 of this section for the calendar year into a report to the attorney general.

(2) Each law enforcement agency shall submit the report to the attorney general no later than March first of the following calendar year.

(3) The attorney general shall determine the format that all law enforcement agencies shall use to submit the report.

4. (1) The attorney general shall analyze the annual reports of law enforcement agencies required by this section and submit a report of the findings to the governor, the general assembly and each law enforcement agency no later than June first of each year.

(2) The report of the attorney general shall include at least the following information for each agency:

(a) The total number of vehicles stopped by peace officers during the previous calendar year;

(b) The number and percentage of stopped motor vehicles that were driven by members of each particular minority group;

(c) A comparison of the percentage of stopped motor vehicles driven by each minority group and the percentage of the state's population that each minority group comprises; and

(d) A compilation of the information reported by law enforcement agencies pursuant to subsection 2 of this section.

5. Each law enforcement agency shall adopt a policy on race-based traffic stops that:

(1) Prohibits the practice of routinely stopping members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law;

(2) Provides for periodic reviews by the law enforcement agency of the annual report of the attorney general required by subsection 4 of this section that:

(a) Determine whether any peace officers of the law enforcement agency have a pattern of stopping members of minority groups for violations of vehicle laws in a number disproportionate to the population of minority groups residing or traveling within the jurisdiction of the law enforcement agency; and

(b) If the review reveals a pattern, require an investigation to determine whether any peace officers of the law enforcement agency routinely stop members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law; **and**

(3) Provides for appropriate counseling and training of any peace officer found to have engaged in race-based traffic stops within ninety days of the review[]; and

(4) Provides for annual sensitivity training for any employees who may conduct stops of motor vehicles regarding the prohibition against racial profiling].

The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

6. If a law enforcement agency fails to comply with the provisions of this section, the governor may withhold any state funds appropriated to the noncompliant law enforcement agency.

7. Each law enforcement agency in this state may utilize federal funds from community-oriented policing services grants or any other federal sources to equip each vehicle used for traffic stops with a video camera and voice-activated microphone.

[590.101. DEFINITIONS (ST. LOUIS COUNTY). — In any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, the definitions contained in section 590.100 shall apply, except that as used in sections 590.100 to 590.180, the following terms shall mean:

(1) "Bailiff", an assigned officer of the court subject to control and supervision and responsible for preserving order and decorum, taking charge of the jury, guarding prisoners, and other services which are reasonably necessary for the proper functioning of the court;

(2) "Nonprimary enforcement activities", activities which include, but are not limited to, traffic control, crowd control, checking abandoned, vacated and temporarily vacated structures, conveyance of motor vehicles, public appearances, and public educational presentations;

(3) "Primary enforcement activities", activities used to enforce the police powers of the state, including, but not limited to, a direct or indirect involvement in the activities of arrest, detention, vehicular pursuit, search, interrogations or the administration of first aid; and

(4) "Reserve officer", any person who serves in a less than full-time law enforcement capacity, with or without pay, and who, without certification, has no power of arrest and who, without certification, must be under direct and immediate accompaniment of a certified peace officer of the same agency in order to engage in primary enforcement activities.]

[590.105. MANDATORY STANDARDS FOR BASIC TRAINING — LIMITATIONS — VARIANCES AUTHORIZED — FEDERAL OFFICERS MAY PARTICIPATE, COSTS — THIRD CLASS COUNTIES, REQUIREMENT FOR CERTIFICATION — HOURS, CREDIT. — 1. A program of mandatory standards for the basic training and certification of peace officers and a program of optional standards for the basic training and certification of reserve officers in this state is hereby established. The peace officer standards and training commission shall establish the minimum number of hours of training and core curriculum. In no event, however, shall the commission require more than one thousand hours of such training for either peace or reserve officers employed by any state law enforcement agency, or more than six hundred hours of such training for other peace or reserve officers; provided, however, that the minimum hours of training shall be no lower than the following:

(1) One hundred twenty hours as of August 28, 1993;

(2) Three hundred hours as of August 28, 1994; and

(3) Four hundred seventy hours as of August 28, 1996. The higher standards provided in this section for certification after August 28, 1993, shall not apply to any peace or reserve officer certified prior to August 28, 1993, or to deputies of any sheriff's department in any city not within a county requiring no more or less than one hundred twenty hours of training. Certified peace and reserve officers between January 1, 1992, and August 28, 1995, shall only meet the hours of training applicable to the year in which the officer was employed or appointed.

2. Beginning on August 28, 1996, peace officers shall be required to complete the four hundred fifty hours of training as peace officers and be certified to be eligible for employment. Park rangers appointed pursuant to section 64.335, RSMo, who do not carry firearms shall be exempt from the training requirements of this section.

3. Bailiffs who are not certified peace officers shall be required to complete a minimum of sixty hours of mandated training, except that any person who has served as a bailiff prior to January 1, 1995, shall not be required to complete the training requirements mandated by this subsection, provided such person's training or experience is deemed adequate by the peace officer standards and training commission in accordance with current standards.

4. All political subdivisions within this state may adopt standards which are higher than the minimum standards implemented pursuant to sections 590.100 to 590.180, and such minimum standards shall in no way be deemed adequate in those cases in which higher standards have been adopted.

5. Any federal officer who has the duty and power of arrest on any federal military installation in this state may, at the option of the federal military installation in which the officer is employed, participate in the training program required under the provisions of sections 590.100 to 590.180 and, upon satisfactory completion of such training program, shall be certified by the director in the same manner provided for peace officers, as defined in section 590.100, except that the duty and power of arrest of military officers for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state shall extend only to the geographical boundaries within which the federal military installation is located. Any costs involved in the training of a federal officer shall be borne by the participating federal military installation.

6. Notwithstanding any provision of this chapter to the contrary, any peace officer who is employed by a law enforcement agency located within a county of the third classification shall be required to have no more or less than one hundred twenty hours of training for certification if the respective city or county adopts an order or ordinance to that effect.

7. The peace officers standards and training commission with input from the department of health and the division of family services shall provide a minimum of thirty hours of initial education to all prospective law enforcement officers, except for agents of the conservation commission, concerning domestic and family violence.

8. The course of instruction and the objectives in learning and performance for the education of law enforcement officers required pursuant to subsection 6 of this section shall be

developed and presented in consultation with public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence. The peace officers standards and training commission shall consider the expertise and grant money of the national council of juvenile and family court judges, with their domestic and family violence project, as well as other federal funds and grant moneys available for training.

9. The course of instruction shall include, but is not limited to:

(1) The investigation and management of cases involving domestic and family violence and writing of reports in such cases, including:

(a) Physical abuse;

(b) Sexual abuse;

(c) Child fatalities;

(d) Child neglect;

(e) Interviewing children and alleged perpetrators;

(2) The nature, extent and causes of domestic and family violence;

(3) The safety of officers investigating incidents of domestic and family violence;

(4) The safety of the victims of domestic and family violence and other family and household members;

(5) The legal rights and remedies available to victims of domestic and family violence, including but not limited to rights and compensation of victims of crime, and enforcement of civil and criminal remedies;

(6) The services available to victims of domestic and family violence and their children;

(7) Sensitivity to cultural, racial and sexual issues and the effect of cultural, racial, and gender bias on the response of law enforcement officers and the enforcement of laws relating to domestic and family violence; and

(8) The provisions of applicable state statutes concerning domestic and family violence.]

[590.112. SHERIFF'S DEPARTMENT EMPLOYEES, CERTAIN COUNTIES, DEPARTMENTAL TRANSFER, CERTIFICATION AND TRAINING REQUIREMENTS. — 1. This section applies to any employees of the sheriff's department of any county of the first classification with a population of two hundred thousand or more inhabitants, who have been certified in a program of training, including but not limited to a training and certification program established pursuant to this chapter.

2. If any person subject to subsection 1 of this section is transferred to a department of public safety or similar agency as a result of the passage of a charter form of government in the county, then notwithstanding the provisions of this chapter, or any local ordinance or order to the contrary, such person's training certification shall remain in effect and shall not lapse, and the training and certification required for the person to be employed by the sheriff's department shall be deemed adequate to be appointed to the department of public safety or similar agency. If such person is thereafter reassigned to the sheriff's department, such person shall be deemed certified for appointment to such position, notwithstanding the provisions of section 590.110, to the contrary; and the chief executive officer as defined in section 590.100 shall not be required to furnish to the director of the department of public safety evidence that such person has satisfactorily completed instruction in a course of training for peace officers.]

[590.115. TRAINING REQUIREMENTS RECOMMENDED, FOR WHOM — COMMISSION MAY DETERMINE REQUIREMENTS — TRANSFER, EFFECT — PRIOR TRAINING, WHAT QUALIFIES FOR — CERTIFICATION — CONTINUING LAW ENFORCEMENT EDUCATION AND TRAINING, PARTICIPATION, COSTS. — 1. Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a peace officer who has been

consistently employed as a full-time peace officer and was appointed before December 31, 1978, whether or not such officer changes his place of employment.

2. Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a reserve officer who was appointed as a reserve officer prior to August 15, 1988. Requirements for certification of such reserve officers may be determined by the commission. A certified reserve officer may transfer from one similar jurisdiction to another as a certified reserve officer without any additional training requirements unless or until the certified reserve officer becomes or attempts to become a full-time peace officer, at which time the individual must satisfy the requirements of this chapter to become a certified full-time police officer, or unless or until the certified reserve officer attempts to become a certified reserve officer in a jurisdiction wherein the basic training requirement is higher than the previous jurisdiction's basic training requirement, at which time the individual must satisfy the higher basic training requirements of the new jurisdiction to become a certified reserve officer.

3. Except as provided in subsections 1, 2 and 4 of this section, in the event that a peace officer claims to have had prior basic training, the chief executive officer shall furnish to the director evidence that the noncertified officer has satisfactorily completed instruction in a course of basic training for peace officers conducted by a law enforcement training academy or institute which is approved by the director as providing basic training equivalent to standards set for jurisdictions within this state. The basic training course satisfactorily completed by the noncertified officer shall meet the minimum basic training requirements of the jurisdiction in which he is appointed or is to be appointed as required under the provisions of sections 590.100 to 590.180.

4. The director may certify a chief executive officer as qualified under sections 590.100 to 590.180, if the person's employer furnishes the director with evidence that the chief executive officer has training or experience equivalent to the standards set forth in subsection 1, 2, or 3 of this section or is a graduate of the FBI National Academy or its equivalent as determined by the director, or holds a bachelor of science degree in criminal justice or a related field received from an accredited college or university or a doctor of jurisprudence degree received from a college or university approved by the American Bar Association.

5. Peace officers and reserve officers meeting the basic training requirements under sections 590.100 to 590.180 shall be eligible to be certified by the director.

6. Beginning August 28, 1996, the peace officer standards and training commission shall establish a program of continuing law enforcement education and training. Each peace officer or reserve officer subject to the training provisions of sections 590.100 to 590.180 shall participate in continuing law enforcement education to maintain certification. The providers of continuing law enforcement education and training, as well as the contents and subject matter thereof, shall be subject to the approval of the peace officer standards and training commission. The costs of the continuing law enforcement education and training offered by certified providers to persons entitled to receive such education and training shall be reimbursed by moneys from the peace officer standards and training commission fund created in section 590.178. The peace officer standards and training commission shall require by rule that all peace officers or reserve officers, subject to the training provisions herein, contribute, based on standards set by the commission, to the cost of said training.

7. The peace officer standards and training commission may provide by rule for the reciprocal recognition of equivalent entry level core basic training at a training center by law enforcement officers of the federal government or other states or territories of the United States, and may require such additional training prior to certification as the commission deems necessary.]

[590.117. INACTIVE, UNEMPLOYED OFFICERS, CONTINUING CERTIFICATION — EXPIRATION, COSTS. — The department shall provide by administrative rule for the requirements for continuing certification of an inactive or unemployed peace officer during the

term of such inactivity or unemployment, provided that the certification of such peace officers shall expire after five consecutive years of such inactivity or unemployment. The cost of any continuing law enforcement education and training required to maintain such certification shall be paid by the inactive or unemployed peace officer.]

[590.121. DIRECTOR OF PUBLIC SAFETY TO CERTIFY TRAINING ACADEMIES AND CORE CURRICULUM — BASIS FOR APPROVAL — RULES TO BE PUBLISHED. — The director shall certify such academies, core curriculum and instruction as necessary to fulfill the purposes of sections 590.100 to 590.180. The certification shall be made by the director on the basis of the experience and educational background of the instructors, the quality and aptness of curriculum, the educational equipment and materials used in the training and the methods and measurements used in such training. The director shall adopt and publish rules pertaining to the establishment of minimum standards for certification pursuant to sections 590.100 to 590.180.]

[590.123. RULES AND REGULATIONS, PROCEDURE TO ADOPT, SUSPEND, REVOKE — DUTIES OF COMMISSION TRAINING STANDARDS. — 1. The peace officer standards and training commission may promulgate rules and regulations to effectuate the purposes of this chapter. No rule or portion of a rule promulgated under the authority of this section shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

2. Upon filing any proposed rule with the secretary of state, the commission shall concurrently submit such proposed rule to the committee which may hold hearings upon any proposed rule or portion thereof at any time.

3. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the commission may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

4. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based;
- (5) That the rule is arbitrary and capricious.

5. If the committee disapproves any rule or portion thereof, the commission shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

6. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

7. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article

IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.]

[590.125. TRAINING MATERIAL AND SEMINARS MAY BE PROVIDED BY DIRECTOR — POWER OF DIRECTOR TO ISSUE, SUSPEND OR REVOKE DIPLOMAS OR CERTIFICATES. — The director may:

- (1) Publish and distribute to all Missouri law enforcement agencies bulletins, pamphlets, and educational materials relating to training of peace officers;
- (2) Provide seminars, in-service training and supervisory training to ensure that officers of all ranks, both appointed and elected, may be offered training in current enforcement and related subjects on a voluntary enrollment basis;
- (3) Consult with and cooperate with any law enforcement agency or division of the state government or the federal government for the development of training programs for the fulfillment of specific needs in law enforcement;
- (4) Issue or authorize the issuance of, suspend or revoke diplomas, certificates or other appropriate indicia of compliance and qualification to peace officers who complete specialized training courses offered by the department of public safety;
- (5) Encourage the further professionalization of peace officers through training and education.]

[590.130. ELECTED COUNTY PEACE OFFICER OR OFFICIALS, CERTIFICATION REQUIRED, EXCEPTIONS — CERTIFICATION NOT ADMISSIBLE AS EVIDENCE — PARTICIPATION IN PRIMARY LAW ENFORCEMENT ACTIVITIES PROHIBITED, WHEN. — No elected county peace officer or official shall be required to be certified under sections 590.100 to 590.180 to seek or hold such office, but all appointive deputies or assistants of such officer or official who are employed as peace officers, provided that such county has five or more full-time peace officers, shall be certified as a condition of appointment in the same manner as other peace officers are required to be certified. No arrest shall be deemed unlawful in any criminal or civil proceeding solely because the peace officer is not certified under the terms of sections 590.100 to 590.180. Evidence on the question cannot be received in any civil or criminal case.]

[590.131. DIRECTOR TO BE NOTIFIED OF PEACE OFFICER'S SEPARATION FROM AGENCY. — The chief executive officer of each law enforcement agency shall notify the director of a peace officer's separation from the agency, whether voluntary or involuntary, and shall set forth in detail the facts and reasons for the separation on a form to be provided by the director.]

[590.135. INSPECTION OF TRAINING ACADEMIES OR PROGRAMS — POWERS OF DIRECTOR TO REFUSE TO CERTIFY TRAINING SCHOOL, PROGRAM, INSTRUCTOR OR PEACE OFFICER — PROCEDURE — IMMUNITY — GROUNDS FOR REFUSAL OR REVOCATION. — 1. The director or any of his designated representatives may:

- (1) Visit and inspect any certified academy or training program requesting certification for the purpose of determining whether or not the minimum standards established pursuant to sections 590.100 to 590.180 are being complied with, and may issue, suspend or revoke certificates indicating such compliance;
 - (2) Issue, suspend or revoke certificates for instructors under the provisions of sections 590.100 to 590.180;
-

(3) Issue or authorize the issuance of diplomas, certificates and other appropriate indicia of compliance and qualification to peace officers trained under the provisions of sections 590.100 to 590.180.

2. The director may refuse to issue, or may suspend or revoke any diploma, certificate or other indicia of compliance and qualification to peace officers or bailiffs issued pursuant to subdivision (3) of subsection 1 of this section of any peace officer for the following:

(1) Conviction of a felony including the receiving of a suspended imposition of a sentence following a plea or finding of guilty to a felony charge;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Falsification or a willful misrepresentation of information in an employment application, or records of evidence, or in testimony under oath;

(4) Dependence on or abuse of alcohol or drugs;

(5) Use or possession of, or trafficking in, any illegal substance;

(6) Gross misconduct indicating inability to function as a peace officer;

(7) Failure to comply with the continuing education requirements as promulgated by rule of the peace officer standards and training commission.

3. Any person aggrieved by a decision of the director under this section may appeal as provided in chapter 536, RSMo.

4. Any person or agency authorized to submit information pursuant to this section to the director shall be immune from liability arising from the submission of the information so long as the information was submitted in good faith and without malice.

5. The director may refuse to certify any law enforcement school, academy, or training program, any law enforcement instructor or any peace officer not meeting the requirements for certification under the provisions of sections 590.100 to 590.180. The director shall notify the applicant in writing of the reasons for the refusal. The applicant shall have the right to appeal the refusal by filing a complaint with the administrative hearing commission as provided by chapter 621, RSMo, and the director shall advise the applicant of this right of appeal.

6. The director shall cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any law enforcement instructor or any peace officer not in compliance with the requirements for certification under the provisions of sections 590.100 to 590.180.

7. After the filing of the complaint, the proceeding will be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 5 of this section for disciplinary action are met, the director may revoke the certification of any such law enforcement school, academy, or training program, law enforcement instructor or any peace officer.]

[590.150. APPLICABILITY OF SECTIONS 590.100 TO 590.180. — The provisions of sections 590.100 to 590.180 shall not apply to a political subdivision having a population of less than two thousand persons or which does not have at least four full-time paid peace officers unless such political subdivision is located in a county of the first class having a charter form of government; provided, however, the governing body of the political subdivision may by order or ordinance elect to come under the provisions of sections 590.100 to 590.180 or such election may be later rescinded and, provided further, that upon election to come under the provisions of sections 590.100 to 590.180 the political subdivision shall be entitled to authorize the fees allowed by section 590.140, otherwise, such fees shall not be collected.]

[590.170. DIRECTOR TO CONSULT WITH SHERIFFS TO DEVELOP TRAINING PROGRAM FOR FIRST TERM SHERIFFS. — 1. The director shall consult with Missouri sheriffs and their professional organizations and after such consultation shall formulate a training program for persons elected for the first time to the office of sheriff for the purpose of developing improved law enforcement procedures throughout the state.

2. The training program shall consist of at least one hundred twenty hours of instruction covering all major phases of law enforcement with emphasis on the duties and responsibilities of sheriffs.]

[590.175. CERTAIN SHERIFFS — ATTENDANCE REQUIRED — TIME OF ATTENDANCE — COMPENSATIONS AND EXPENSES. — 1. Any person who is elected to his first term as sheriff in a general election or in a special election in any county of this state shall, within eighteen months of such election, cause to be filed with the presiding circuit judge of the county and director of the department of public safety proof that he has completed the training program formulated pursuant to sections 590.170 and 590.175 or some other comparable training program of not less than one hundred twenty hours instruction approved by the director of the department of public safety.

2. Whether any person elected to his first term as sheriff attends such a training program prior to or after assuming the duties of his office shall be left to the discretion of the governing body of the county from which he was elected. During the time that a sheriff-elect is enrolled in such a training program, he shall be hired as a county employee and receive as full compensation from the county from which he was elected, compensation at a rate equal to that of the sheriff of the county. Tuition and room and board for newly elected sheriffs and sheriffs-elect enrolled in such a training program shall be paid by the state.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to guarantee adequate law enforcement protection for certain citizens of this state, the enactment of sections 67.1860, 67.1862, 67.1864, 67.1866, 67.1868, 67.1870, 67.1872, 67.1874, 67.1876, 67.1878, 67.1880, 67.1882, 67.1884, 67.1886, 67.1888, 67.1890, 67.1892, 67.1894, 67.1896 and 67.1898, of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 67.1860, 67.1862, 67.1864, 67.1866, 67.1868, 67.1870, 67.1872, 67.1874, 67.1876, 67.1878, 67.1880, 67.1882, 67.1884, 67.1886, 67.1888, 67.1890, 67.1892, 67.1894, 67.1896 and 67.1898, of this act shall be in full force and effect upon their passage and approval.

SECTION C. EMERGENCY CLAUSE. — Because immediate action is necessary to protect municipalities, the repeal and reenactment of section 94.577 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 94.577 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 2, 2001

HB 84 [HB 84]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Mandates that expenses for training sessions for county recorders in certain counties be reimbursed in the same manner as other expenses are reimbursed in such county.

AN ACT to repeal section 50.334, RSMo 2000, relating to recorders of deeds, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
 50.334. Recorders of deeds, compensation — classroom instruction required, when, expenses shall be reimbursed, when (certain counties).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 50.334, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 50.334, to read as follows:

50.334. RECORDERS OF DEEDS, COMPENSATION — CLASSROOM INSTRUCTION REQUIRED, WHEN, EXPENSES SHALL BE REIMBURSED, WHEN (CERTAIN COUNTIES). — 1. In all counties, except counties of the first classification having a charter form of government and counties of the first classification not having a charter form of government and not containing any part of a city with a population of three hundred thousand or more, each recorder of deeds, if the recorder's office is separate from that of the circuit clerk, shall receive as total compensation for all services performed by the recorder, except as provided pursuant to section 50.333, an annual salary which shall be computed on an assessed valuation basis as set forth in the following schedule. The assessed valuation factor shall be the amount thereof as computed for the year next preceding the computation. The county recorder of deeds whose office is separate from that of the circuit clerk in any county, other than a county of the first classification having a charter form of government or a county of the first classification not having a charter form of government and not containing any part of a city with a population of three hundred thousand or more, shall not, except upon two-thirds vote of all the members of the salary commission, receive an annual compensation in an amount less than the total compensation being received for the office of county recorder of deeds in the particular county for services rendered or performed on January 1, 1997.

Assessed Valuation	Salary
\$ 8,000,000 to 40,999,999	\$29,000
41,000,000 to 53,999,999	30,000
54,000,000 to 65,999,999	32,000
66,000,000 to 85,999,999	34,000
86,000,000 to 99,999,999	36,000
100,000,000 to 130,999,999	38,000
131,000,000 to 159,999,999	40,000
160,000,000 to 189,999,999	41,000
190,000,000 to 249,999,999	41,500
250,000,000 to 299,999,999	43,000
300,000,000 or more	45,000

2. Two thousand dollars of the salary authorized in this section shall be payable to the recorder only if he has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the recorder's office when approved by a professional association of the county recorders of deeds of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each recorder who completes the training program and shall send a list of certified recorders to the treasurer of each county. Expenses incurred for attending the training session [may] **shall** be reimbursed to the county recorder in the same manner as other expenses as may be appropriated for that purpose.

Approved July 13, 2001

HB 106 [HCS HB 106]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a state systemic lupus erythematosus program in the Department of Health.

AN ACT to amend chapter 192, RSMo, by adding thereto one new section relating to a state systemic lupus erythematosus program in the department of health.

SECTION

A. Enacting clause.

192.729. Systemic lupus erythematosus program established — expansion of existing programs permitted — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 192, RSMo, is amended by adding thereto one new section, to be known as section 192.729, to read as follows:

192.729. SYSTEMIC LUPUS ERYTHEMATOSIS PROGRAM ESTABLISHED — EXPANSION OF EXISTING PROGRAMS PERMITTED — RULEMAKING AUTHORITY. — 1. There is hereby established a state systemic lupus erythematosus program in the department of health. Subject to appropriations, the lupus program shall:

- (1) Track and monitor the prevalence of lupus throughout the state;
- (2) Identify medical professionals and providers that are knowledgeable or specialize in the treatment of lupus and related diseases or illnesses; and
- (3) Promote lupus research and public awareness through collaborations with academic partners throughout the state and local boards, including the Missouri chapter of the lupus foundation.

2. The department may utilize or expand existing programs such as the office of women's health, the office of minority health and the state arthritis program established in sections 192.700 to 192.727 to meet the requirements of this section.

3. The department may promulgate rules to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

Approved June 29, 2001

HB 107 [SCS HS HCS HB 107]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Legal Services for Low-income People Fund, funded from the Tort Victims' Compensation Fund.

AN ACT to repeal section 537.675, RSMo 2000, relating to judicial and administrative procedures, and to enact in lieu thereof nine new sections relating to the same subject.

SECTION

A. Enacting clause.

- 476.777. Missouri CASA fund established, disbursements — no reversion to general revenue fund.
- 488.636. Two-dollar surcharge to be collected on domestic relations cases — deposit into Missouri CASA fund.
- 537.675. Tort victims' compensation fund established — definitions — notification of punitive damage award to attorney general, lien for deposit into fund — legal services for low-income people fund established.
- 537.678. Percentage of fund to be used to assist uncompensated tort victims — filing of claims, procedure.
- 537.681. Eligibility requirements — waiver of certain requirements, when — incarcerated victim, procedure.
- 537.684. Filing of a claim, determining compensation, procedure — payment of claims.
- 537.687. Medical records submitted, when — violation, penalty.
- 537.690. Petition for review of a decision by the division filed with commission — judicial review permitted, when.
- 537.693. Right of subrogation, payment of a claim — division lien on any compensation received by claimant — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 537.675, RSMo 2000, is repealed and nine new sections enacted in lieu thereof, to be known as sections 476.777, 488.636, 537.675, 537.678, 537.681, 537.684, 537.687, 537.690 and 537.693, to read as follows:

476.777. MISSOURI CASA FUND ESTABLISHED, DISBURSEMENTS — NO REVERSION TO GENERAL REVENUE FUND. — 1. There is hereby established in the state treasury a special fund, to be known as the "Missouri CASA Fund". The state treasurer shall credit to and deposit in the Missouri CASA fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources, in addition to any moneys deposited pursuant to section 488.636. The general assembly may appropriate moneys into the fund to support the court-appointed special advocate (CASA) program throughout the state.

2. The state treasurer shall invest moneys in the Missouri CASA fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the fund shall be credited to the Missouri CASA fund.

3. The state courts administrator shall administer and disburse moneys in the Missouri CASA fund based on the following requirements:

(1) The office of state courts administrator shall set aside funding for new start-up CASA programs throughout the state;

(2) Every recognized CASA program shall receive a base rate allocation, with availability of additional funding based on the number of children with abuse or neglect cases under the jurisdiction of the court; and

(3) All CASA programs being considered for funding shall be recognized by and affiliated with the state and national CASA associations.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri CASA fund shall not revert to the credit of the general revenue fund at the end of the biennium.

488.636. TWO-DOLLAR SURCHARGE TO BE COLLECTED ON DOMESTIC RELATIONS CASES — DEPOSIT INTO MISSOURI CASA FUND. — In addition to all other court costs for domestic relations cases, the circuit clerk shall collect an additional surcharge in the amount of two dollars per case for each domestic relations petition filed before a circuit judge or associate circuit judge. Such surcharges collected by circuit court clerks shall be collected and disbursed as provided by sections 488.010 to 488.020. Such fees shall be payable to the state treasurer, to be deposited into the Missouri CASA fund.

537.675. TORT VICTIMS' COMPENSATION FUND ESTABLISHED — DEFINITIONS — NOTIFICATION OF PUNITIVE DAMAGE AWARD TO ATTORNEY GENERAL, LIEN FOR DEPOSIT

INTO FUND — LEGAL SERVICES FOR LOW-INCOME PEOPLE FUND ESTABLISHED. — 1. As used in sections 537.675 through 537.693, the following terms mean:

- (1) "Annual claims", that period of time commencing on the first day of January of every year after December 31, 2002, and ending on the last day of that calendar year;
- (2) "Commission", the labor and industrial relations commission;
- (3) "Division", the division of workers' compensation;
- (4) "Initial claims period", that period commencing on August 28, 2001, and ending on December 31, 2002;
- (5) "Punitive damage final judgment", an award for punitive damages excluding interest that is no longer subject to review by courts of this state or of the United States;
- (6) "Uncompensated tort victim", a person who:
 - (a) Is a party in a personal injury or wrongful death lawsuit; or is a tort victim whose claim against the tortfeasor has been settled for the policy limits of insurance covering the liability of such tortfeasor and such policy limits are inadequate in light of the nature and extent of damages due to the personal injury or wrongful death;
 - (b) Unless described in paragraph (a) of this subdivision:
 - a. Has obtained a final monetary judgment in that lawsuit described in paragraph (a) of this subdivision against a tortfeasor for personal injuries, or wrongful death in a case in which all appeals are final;
 - b. Has exercised due diligence in enforcing the judgment; and
 - c. Has not collected the full amount of the judgment;
 - (c) Is not a corporation, company, partnership or other incorporated or unincorporated commercial entity;
 - (d) Is not any entity claiming a right of subrogation;
 - (e) Was not on house arrest and was not confined in any federal, state, regional, county or municipal jail, prison or other correctional facility at the time he or she sustained injury from the tortfeasor;
 - (f) Has not pleaded guilty to or been found guilty of two or more felonies, where such two or more felonies occurred within ten years of the occurrence of the tort in question, and where either of such felonies involved a controlled substance or an act of violence; and
 - (g) Is a resident of the state of Missouri or sustained personal injury or death by a tort which occurred in the state of Missouri.

2. There is created the "Tort Victims' Compensation Fund". Unexpended moneys in the fund shall not lapse at the end of the biennium as provided in section 33.080, RSMo.

[2. Fifty percent of any final judgment awarding punitive damages after the deduction of attorneys' fees and expenses shall be deemed rendered in favor of the state of Missouri. The circuit clerks shall notify the attorney general of any final judgment awarding punitive damages rendered in their circuits. With respect to such fifty percent, the attorney general shall collect upon such judgment, and may execute or make settlements with respect thereto as he deems appropriate for deposit into the fund.]

3. Any party receiving a judgment final for purposes of appeal for punitive damages in any case filed in any division of any circuit court of the state of Missouri shall notify the attorney general of the state of Missouri of such award, except for actions claiming improper health care pursuant to chapter 538, RSMo. The state of Missouri shall have a lien for deposit into the tort victims' compensation fund to the extent of fifty percent of the punitive damage final judgment which shall attach in any such case after deducting attorney's fees and expenses. In each case, the attorney general shall serve a lien notice by certified mail or registered mail upon the party or parties against whom the state has a claim for collection of its share of a punitive damage final judgment. On a petition filed by the state, the court, on written notice to all interested parties, shall adjudicate the rights of the parties and enforce the lien. The lien shall not be satisfied out of any recovery until the attorney's claim for fees and expenses is paid. The state can file its lien in all cases

where punitive damages are awarded upon the entry of the judgment final for purposes of appeal. The state cannot enforce its lien until there is a punitive damage final judgment. Cases resolved by arbitration, mediation or compromise settlement prior to a punitive damage final judgment are exempt from the provisions of this section. Nothing in this section shall hinder or in any way affect the right or ability of the parties to any claim or lawsuit to compromise or settle such claim or litigation on any terms and at any time the parties desire.

[3.] 4. The state of Missouri shall have no interest in or right to intervene at any stage of any judicial proceeding [under] pursuant to this section, except to enforce its lien rights as provided in subsection 3 of this section.

[4. No disbursement shall be made from the tort victims' compensation fund until procedures for disbursement are established by further action of the general assembly.]

5. There is hereby established in the state treasury the "Legal Services for Low-Income People Fund", which shall consist of twenty-six percent of all payments received into the tort victims' compensation fund and all interest accruing on the principal, regardless of source or designation including twenty-six percent of the money that upon the effective date of this act is in the tort victims' compensation fund. Moneys, funds or payments paid to the credit of the legal services for low-income people fund shall, at least as often as annually, upon appropriation, be distributed to the legal services organizations in Missouri which are recipients of federal Legal Services Corporation funding and shall be used for no other purpose than as authorized pursuant to sections 537.675 to 537.693. The funds so distributed shall be used by legal services organizations in Missouri solely to provide legal services to its low-income population. Funds shall be allocated according to the most recent official census data from the Bureau of Census, United States Department of Commerce for people in poverty residing in Missouri. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the legal services for low-income people fund at the end of any biennium shall not be transferred to general revenue, but shall remain in the fund and be distributed in accordance with the provisions of this section. Moneys in the tort victims' compensation fund shall not be used to pay any portion of a refund mandated by article X, section 18 of the constitution.

537.678. PERCENTAGE OF FUND TO BE USED TO ASSIST UNCOMPENSATED TORT VICTIMS — FILING OF CLAIMS, PROCEDURE. — 1. Seventy-four percent of all payments received by the tort victims' compensation fund regardless of source or designation shall, upon appropriation, be appropriated to the division of workers' compensation to assist uncompensated tort victims and shall be used for no other purpose. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the budget of the division of workers' compensation for compensation of uncompensated tort victims shall not be transferred to general revenue but shall remain in the fund. Moneys in the tort victims' compensation fund shall not be used to pay any portion of a refund mandated by article X, section 18 of the constitution.

2. The division of workers' compensation shall, pursuant to the provisions of sections 537.678 to 537.693, have jurisdiction to determine and award compensation to or on behalf of uncompensated tort victims. The requirement that the uncompensated tort victim has obtained a final judgment may be waived by the division based upon the tortfeasor's bankruptcy, inability to identify the tortfeasor or inability to obtain service of process on the tortfeasor after making a good faith effort to do so or the claim against tortfeasor has been settled for the insurance policy limits available to cover the liability of such tortfeasor and such policy limits are inadequate in light of the injury suffered by the tort victim. The division is not required to award compensation, nor is it required to award the full amount claimed. The division shall base its award of compensation upon independent verification obtained during its investigation. In no case shall the amount

paid to the individual exceed the lesser of either the net award granted by the court or jury, or the amount remaining in the tort victims' compensation fund, provided, however, that no award shall exceed three hundred thousand dollars.

3. Claims shall be made by filing an application for compensation with the division. The division shall furnish an application form which shall include:

- (1) The name and address of the uncompensated tort victim;
- (2) If the claimant is not the uncompensated tort victim, the name and address of the claimant and relationship to the victim, the name and address of any dependents of the victim, and the extent to which each is so dependent;
- (3) The date and nature of the tort on which the application for compensation is based;
- (4) The date and court in which a judgment was rendered against the tortfeasor, including the judgment amount specifying medical costs, if available. If no final judgment was obtained and the claimant is requesting a waiver pursuant to subsection 2 of this section, the application shall include a statement establishing the basis for a waiver;
- (5) The nature and extent of the injuries sustained by the victim, the names and addresses of those giving medical and hospital treatment to the victim and whether death resulted;
- (6) The loss to the claimant or a dependent resulting from the injury or death;
- (7) The amount of benefits, payments or awards, if any, payable from any source that the claimant or dependent has received or for which the claimant or dependent is eligible as a result of the injury or death;
- (8) Releases by the claimant authorizing any reports, documents and other information relating to the matters specified pursuant to this section to be obtained by the division; and
- (9) Any other information as the division determines is necessary.

4. In addition to the application, the division may require that the claimant submit materials substantiating the facts stated in the application.

5. If the division finds that an application does not contain the required information or that the facts stated therein have not been substantiated, it shall notify the claimant in writing of the specific additional items or information or materials required and that the claimant has thirty days from the date of mailing in which to furnish those items to the division. Unless a claimant requests and is granted an extension of time by the division, the division may reject, without prejudice to refiling of another application for the same matter, the claim of the claimant for failure to file the additional information or materials within the specified time. Extensions of time to file such additional information shall be freely granted.

6. The claimant may file an amended application or additional substantiating materials to correct inadvertent errors or omissions at any time before the division has completed its consideration of the original application.

7. Any state or local agency, including a prosecuting attorney or law enforcement agency, shall make available without cost to the fund, all reports, files and other appropriate information that the division requests in order to make a determination that a claimant is eligible for an award pursuant to sections 537.675 to 537.693.

8. Any notice required pursuant to sections 537.675 to 537.693, with the exception of the lien notice required by subsection 3 of section 537.675, shall be sent by first class mail, postage prepaid, to the party's last known address or to the last known address of the party's attorney or other legal representative.

537.681. ELIGIBILITY REQUIREMENTS — WAIVER OF CERTAIN REQUIREMENTS, WHEN — INCARCERATED VICTIM, PROCEDURE. — 1. The following persons shall be eligible for compensation pursuant to sections 537.675 to 537.693:

(1) An uncompensated tort victim; and
(2) In the case of the death of the uncompensated tort victim as a direct result of the tort:

(a) The class of persons identified in subsection 1 of section 537.080; and
(b) Any relative of the uncompensated tort victim who legally assumes the obligation for, or who has incurred medical or burial expenses as a direct result of the tort at issue.

2. An uncompensated tort victim that is found personally liable on a cross-complaint of tort, or found to have been contributorily or comparatively negligent, shall only be eligible to receive compensation to the extent of the favorable net amount awarded by the judge or jury. No uncompensated tort victim or other eligible claimant shall be denied compensation solely because such person is a relative of the tortfeasor or was living with the tortfeasor as a family or household member at the time of the injury or death. The division, however, may award compensation to a victim or other eligible claimant only if the division can reasonably determine that the tortfeasor will receive no substantial economic benefit or unjust enrichment from the compensation.

3. The division may waive the requirements of paragraph (e) of subdivision (5) of subsection 1 of section 537.675 if it determines that the interest of justice would be served by doing so.

4. In the case of an uncompensated tort victim or other eligible claimant who is incarcerated as a result of a conviction of a crime not related to the incident which is the basis for the claimant's application:

(1) The division shall suspend all proceedings and payments until such time as the uncompensated tort victim or other eligible claimant is released from incarceration;

(2) The division shall notify the claimant at the time the proceedings are suspended of the right to reactivate the claim within six months of his or her release from incarceration;

(3) The uncompensated tort victim or other eligible claimant may file an application to request that the case be reactivated not later than six months after the date he or she is released from incarceration. Failure to file such request within the six-month period shall serve as a bar to any recovery.

537.684. FILING OF A CLAIM, DETERMINING COMPENSATION, PROCEDURE — PAYMENT OF CLAIMS. — 1. A claim for compensation may be filed by a person eligible for compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's spouse, parent, conservator or guardian.

2. A claim shall be filed not later than two years after the judgment upon which it is based becomes final and all appeals are final, except with regard to the initial claims period. If there is no judgment, claims must be filed within time limits prescribed pursuant to section 516.120, RSMo, except for cases resulting in death, in which case claims must be filed within time limits prescribed pursuant to section 537.100, except with regard to the initial claims period. With regard to the initial claims period, any claim may be filed that is based upon a judgment that is not expired or that is based upon a claim not reduced to judgment for a reason allowed by subsection 2 of section 537.678, and which would not be barred by the applicable statute of limitations if the tortfeasor could be served with process or had not taken bankruptcy.

3. Each claim shall be filed in person or by mail. The division shall investigate such claim prior to the opening of formal proceedings. The director of the division shall assign an administrative law judge, associate administrative law judge or legal advisor within the division to hear any claim for compensation filed. The claimant shall be notified of the date and time of any hearing on the claim. In determining the amount of compensation for which a claimant is eligible, the division shall:

(1) Consider the facts stated on the application filed pursuant to section 537.678;

(2) Obtain a copy of the final judgment, if any, from the appropriate court;
(3) Determine the amount of the loss to the claimant, or the victim's survivors or dependents; and

(4) If there is no final judgment, determine the degree or extent to which the victim's acts or conduct provoked, incited or contributed to the injuries or death of the victim.

4. The claimant may present evidence and testimony on his or her own behalf or may retain counsel.

5. Prior to any hearing, the person filing a claim shall submit reports, if available, from all hospitals, physicians or surgeons who treated or examined the victim for the injury for which compensation is sought. If, in the opinion of the division, an examination of the injured victim or a report on the cause of death of the victim would be of material aid, the division may appoint a duly qualified, impartial physician to make an examination and report. A finding of the judge or jury in the underlying case shall be considered as evidence.

6. Each and every payment shall be exempt from attachment, garnishment or any other remedy available to creditors for the collection of a debt, provided however, this section shall not in any way affect the right of any attorney who represents or represented any claimant to collect any fee or expenses to which he or she is entitled.

7. Payments of compensation shall not be made directly to any person legally incompetent to receive them but shall be made to the parent, guardian or conservator for the benefit of such minor, disabled or incapacitated person.

8. Payment of all claims from the fund shall be made on the following basis, to-wit:

(1) With regard to all claims that are made during the initial claims period, the division shall determine the aggregated amount of all awards made on these claims. Such determination shall be made on or before June 30, 2003. If the aggregate value of the awards does not exceed the total amount of money in the fund, then the awards shall be paid in full on or before September 30, 2003. If the aggregate value of the awards does exceed the total amount of money in the fund, then the awards shall be paid on a prorata basis on or before September 30, 2003.

(2) With regard to all claims that are made after the initial claims period, the division shall determine the aggregate amount of all awards made on those claims filed during an annual claims period. Such determination shall be made on or before the 30th day of June in the next succeeding year. If the aggregate value of the awards does not exceed the total amount of money in the fund, then the awards shall be paid in full on or before the 30th day of September in the next succeeding year. If the aggregate value of the awards does exceed the total amount of money in the fund, then the awards shall be paid on a prorata basis on or before the 30th day of September in the next succeeding year.

9. If there are no funds available, then no claim shall be paid until funds have accumulated in the tort victims' compensation fund and have been appropriated to the division for payment to uncompensated tort victims. When sufficient funds become available for payment of claims of uncompensated tort victims, awards that have been determined but have not been paid shall be paid in chronological order with the oldest paid first, based upon the date on which the application was filed with the division. Any award pursuant to this subsection that cannot be paid due to a lack of funds appropriated for payment of claims of uncompensated tort victims shall not constitute a claim against the state.

10. In the event there are no funds available for payment of claims, then the division may suspend all action related to valuing claims and granting awards until such time as funds in excess of one hundred thousand dollars have accumulated in the tort victims' compensation fund, at which time the division shall resume its claim processing duties.

537.687. MEDICAL RECORDS SUBMITTED, WHEN — VIOLATION, PENALTY. — 1. Upon request by the division for verification of injuries of victims, a medical provider shall submit medical records and other information requested by the division. Any costs to the claimant for obtaining and providing such information may be submitted as part of the claim.

2. Failure to submit the information as required by this section shall be an infraction.

537.690. PETITION FOR REVIEW OF A DECISION BY THE DIVISION FILED WITH COMMISSION — JUDICIAL REVIEW PERMITTED, WHEN. — 1. Any of the parties to a decision of the division on a claim heard under the provisions of sections 537.675 to 537.693 may, within thirty days following the date of notification or mailing of such decision, file a petition with the labor and industrial relations commission to have the decision reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse or set aside the decision of the division on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division with directions. The commission shall promptly notify the parties of its decision and the reasons therefore.

2. Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

3. Any party who is aggrieved by a final decision of the commission entered pursuant to the provisions of subsections 1 and 2 of this section may seek judicial review thereof by appealing, within twenty days of a final decision to the appellate court having jurisdiction in the area where the appellant resides. In such proceedings the attorney general, on behalf of the tort victims' compensation fund, shall defend the decision of the commission. The commission shall not be a party in such actions.

537.693. RIGHT OF SUBROGATION, PAYMENT OF A CLAIM — DIVISION LIEN ON ANY COMPENSATION RECEIVED BY CLAIMANT — RULEMAKING AUTHORITY. — 1. Payment of any compensation pursuant to sections 537.675 to 537.693 shall vest in the state of Missouri a right of subrogation to the extent of such compensation paid, to any right or right of action of the claimant to recover payments with respect to which the compensation has been paid and to enforce the underlying judgment against the tortfeasor. The attorney general may enforce the subrogation interest, and may file suit to enforce that right of subrogation.

2. The division shall have a lien on any compensation received by the claimant from the tortfeasor or the tortfeasor's agent after payment by the division to the claimant, in addition to compensation received pursuant to the provisions of sections 537.675 to 537.693, for injuries or death resulting from the incident upon which the claim is based. The claimant shall retain, as trustee for the division, so much of the recovered funds as necessary to reimburse the Missouri tort victims' compensation fund to the extent that compensation was paid to the claimant from that fund.

3. If a claimant initiates any legal proceeding to recover restitution or damages or enforce the underlying judgment related to the tort upon which the claim is based, or if the claimant enters into negotiations to receive any proceeds in settlement or a claim for restitution or damages related to the tort, the claimant shall give the division written notice within fifteen days of the filing of the action or entering into negotiations. The division may intervene in the proceeding of a claimant to enforce its subrogation interest. If a claimant fails to give such written notice to the division within the stated time period or prior to any attempt by claimant to reach a negotiated settlement of claims for recovery of damages related to the tort upon which the claim is based, the division's right of

subrogation to receive or recover funds from claimant, to the extent that compensation was awarded by the division, shall not be reduced in any amount or percentage by the costs incurred by claimant attributable to such legal proceedings or settlement, including, but not limited to, attorney's fees, investigative costs or court costs; however, if the claimant provides written notice to the division as required in this section then the subrogation interest of the division shall be reduced by a percentage equal to the percentage that the attorney's fees and expenses incurred by the claimant bears to the total recovery.

4. Whenever the division shall deem it necessary to protect, maintain or enforce the division's right to subrogation or to exercise any of its powers to carry out any of its duties or responsibilities, the attorney general may initiate legal proceedings or intervene in legal proceedings as the division's legal representative.

5. The division is hereby granted authority to adopt rules and regulations, consistent with the provisions of sections 537.678 to 537.693, which rules and regulations may govern application for and distribution of those moneys appropriated to the division from the tort victims' compensation fund.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in subsection 5 of this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

Approved July 2, 2001

HB 129 [HB 129]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits state and local governments from entering into contingency fee contracts for work performed on tax collection cases.

AN ACT to amend chapter 136, RSMo, relating to collection of state taxes by adding thereto one new section relating to government contracts for the examination of taxpayer records.

SECTION

A. Enacting clause.

136.076. Examination of taxpayer's books and records, no contract for general revenue or special revenue funds to be expended, when — effect of such contract — tax, defined — exceptions to applicability of section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 136, RSMo, is amended by adding thereto one new section, to be known as section 136.076, to read as follows:

136.076. EXAMINATION OF TAXPAYER'S BOOKS AND RECORDS, NO CONTRACT FOR GENERAL REVENUE OR SPECIAL REVENUE FUNDS TO BE EXPENDED, WHEN — EFFECT OF SUCH CONTRACT — TAX, DEFINED — EXCEPTIONS TO APPLICABILITY OF SECTION. — 1.

Neither this state nor any county of this state shall enter into any contract or arrangement or expend any general revenue or special revenue funds for the examination of a taxpayer's books and records if any part of the compensation paid or payable for the services of the person, firm or corporation conducting the examination is contingent upon or otherwise related to the amount of tax, interest, court cost or penalty assessed against or collected from the taxpayer. A contract or arrangement in violation of this section, if made or entered into after the effective date of this act, is void and unenforceable. Any assessment or preliminary assessment of taxes, penalties or interest proposed or asserted by a person, firm or corporation compensated pursuant to any such contract or arrangement shall likewise be null and void. Any contract or arrangement, if made or entered into after the effective date of this section, in which the person, firm or corporation conducting the examination agrees or has an understanding with the taxing authority that all or part of the compensation paid or payable will be waived or otherwise not paid if there is no assessment or no collection of tax or if less than a certain amount is assessed or collected is void and unenforceable.

2. For the purposes of this section the word "tax" shall mean any tax, license, fee or other charge payable to the state of Missouri, any agency thereof, county or any agency thereof, or other political subdivision or any agency thereof, including but not limited to, income, franchise, sales and use, property, business license, gross receipts or any other taxes payable by the taxpayer on account of its activities or property in, or income, sales, gross receipts or the like derived from sources within, the state, county or political subdivision.

3. The provisions of this section shall not be construed to prohibit or restrict this state or a county of this state from entering into contracts or arrangements for the collection of any tax, interest, court cost or penalty when the person, firm or corporation making such assessment or collection has no authority to determine the amount of tax, interest, court cost or penalty owed this state or a county or other political subdivision of this state without approval of the entity.

Approved June 8, 2001

HB 133 [SCS HB 133]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows local housing corporations and neighborhood associations to bring property receivership actions.

AN ACT to repeal sections 441.500, 441.510, 441.520, 441.550, 441.590, 447.700 and 447.708, RSMo 2000, relating to property development, and to enact in lieu thereof eight new sections relating to the same subject, with an expiration date for a certain section.

SECTION

- A. Enacting clause.
 - 441.500. Definitions.
 - 441.510. Civil action, how maintained — procedure.
 - 441.520. Parties to action — designation of registered agent required, when.
 - 441.550. Notice of application filed with recorder of deeds.
 - 441.590. Court orders, provisions.
 - 447.700. Definitions.
 - 447.708. Tax credits, criteria, conditions — definitions.
-

447.721. Contiguous property redevelopment fund created — grants issued to certain counties by department, criteria — rulemaking authority — expiration date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 441.500, 441.510, 441.520, 441.550, 441.590, 447.700 and 447.708, RSMo 2000, are repealed and eight new sections enacted in lieu thereof, to be known as sections 441.500, 441.510, 441.520, 441.550, 441.590, 447.700, 447.708 and 447.721, to read as follows:

441.500. DEFINITIONS. — As used in sections 441.500 to 441.643, the following terms mean:

(1) "Abatement", the removal or correction, including demolition, of any condition at a property that violates the provisions of any duly enacted building or housing code, as well as the making of such other improvements or corrections as are needed to effect the rehabilitation of the property or structure, including the closing or physical securing of the structure;

(2) "Agent", a person authorized by an owner to act for him;

(3) "Code enforcement agency", the official, agency, or board that has been delegated the responsibility for enforcing the housing code by the governing body;

(4) "Community", any county or municipality;

(5) "County", any county in the state;

(6) "Dwelling unit", premises or part thereof occupied, used, or held out for use and occupancy as a place of abode for human beings, whether occupied or vacant;

(7) "Governing body", the board, body or persons in which the powers of a community are vested;

(8) "Housing code", a local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings;

(9) "Local housing corporation", a not for profit corporation organized pursuant to the laws of the state of Missouri for the purpose of promoting housing development and conservation within a specified area of a municipality or an unincorporated area;

(10) "Municipality", any incorporated city, town, or village;

(11) **"Neighborhood association", any group of persons organized for the sole purpose of improvement of a particular geographic area having specific boundaries within a municipality, provided that such association is recognized by the municipality as the sole association for such purpose within such geographic area;**

(12) "Notice of deficiency", a notice or other order issued by the code enforcement agency and requiring the elimination or removal of deficiencies found to exist under the housing code;

[(12)] (13) "Nuisance", a violation of provisions of the housing code applying to the maintenance of the buildings or dwellings which the code official in the exercise of reasonable discretion believes constitutes a threat to the public health, safety or welfare;

[(13)] (14) "Occupant", any person occupying a dwelling unit as his or her place of residence, whether or not that person is occupying the dwelling unit as a tenant from month to month or under a written lease, undertaking or other agreement;

[(14)] (15) "Owner", the record owner or owners, and the beneficial owner or owners when other than the record owner, of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, personal representative, trustee, lessee, agent, or any other person in control of a dwelling unit;

[(15)] (16) "Person", any individual, corporation, association, partnership, or other entity.

441.510. CIVIL ACTION, HOW MAINTAINED — PROCEDURE. — 1. If any building or dwelling is found to be in violation of building or housing codes which the county [or],

municipality, **local housing corporation or neighborhood association** in the exercise of reasonable discretion believes constitutes a threat to the public health, safety or welfare, **and alleges the nature of such threat in its petition**, the county [or], municipality, **local housing corporation or neighborhood association**, in addition to any other remedies available to it, may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement.

2. At least sixty days prior to the filing of an application for appointment of a receiver pursuant to sections 441.500 to 441.643, the county [or], municipality, **local housing corporation or neighborhood association** shall give written notice by regular mail to all interested parties of its intent to file the application and information relative to:

- (1) The identity of the property;
- (2) The violations of the building or housing codes giving rise to the application for the receiver;
- (3) The name, address and telephone number of the person or department where additional information can be obtained concerning violations and their remedy; and
- (4) The county [or], municipality, **local housing corporation or neighborhood association** which may seek the appointment of a receiver pursuant to sections 441.500 to 441.643 unless action is taken within sixty days by an interested party.

3. A county [or], municipality, **local housing corporation or neighborhood association** may not apply for the appointment of a receiver pursuant to sections 441.500 to 441.643 if an interested party has commenced and is then prosecuting in a timely fashion an action or other judicial or nonjudicial proceeding to foreclose a security interest on the property, or to obtain specific performance of a land sale contract, or to forfeit a purchaser's interest under a land sale contract.

4. Notice of the application for the appointment of a receiver shall be served on all interested parties.

5. If, following the application for appointment of a receiver, one or more of the interested parties elects to correct the conditions at the property giving rise to the [county's or municipality's] application for the appointment of a receiver, the party or parties shall be required to post security in an amount and character as the court deems appropriate to ensure timely performance of all work necessary to make corrections, as well as such other conditions as the court deems appropriate to effect the timely completion of the corrections by the interested party or parties.

6. In the event that no interested party elects to act pursuant to subsection 5 of this section or fails to timely perform work undertaken pursuant to subsection 5 of this section, the court shall make a determination that the property is in an unsafe or insanitary condition and appoint a receiver to complete the abatement.

7. A receiver appointed by the court pursuant to sections 441.500 to 441.643 shall not be required to give security or bond of any sort prior to appointment.

441.520. PARTIES TO ACTION — DESIGNATION OF REGISTERED AGENT REQUIRED, WHEN. — 1. The action to appoint a receiver authorized by section 441.510 shall be commenced by the filing of a verified petition by the county [or], municipality, **local housing corporation or neighborhood association**.

2. There shall be named as defendants:

- (1) The last owner of record of the dwelling as of the date of the filing of the petition; and
- (2) The last holder of record of any mortgage, deed of trust, or other lien of record against the building as of the date of the filing of the petition.

3. Any owner of the dwelling who is not a party defendant may be permitted by the court to join as a party defendant.

4. (1) Any owner, whether or not a citizen or resident of this state, who in person or through agent, owns, uses, or is possessed of any real estate situated in this state thereby subjects himself or itself to the jurisdiction of the courts of this state as to any cause of action arising

pursuant to the provisions of sections 441.500 to 441.643. Personal service of process shall be made in accordance with the rules of civil procedure; provided that, if such service cannot with due diligence be made, service of process may be made by personally serving process upon the defendant outside this state, or by service in accordance with the rules of civil procedure as in all cases affecting a res within the jurisdiction of the court.

(2) If a landlord of residential property is not a resident of this state or is a corporation, [he must] **the landlord shall** designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to transact business in this state. The designation shall be in writing and include the address and the name of the registered agent and shall be filed in the office of the secretary of state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the secretary of state, but service upon him **or her** is not effective unless the petitioner forthwith mails a copy of the process and pleading by certified mail to the defendant or respondent at the address stated on the assessor's records for the subject property. An affidavit of compliance with this section shall be filed with the clerk of the court.

5. Any action brought pursuant to the provisions of sections 441.500 to 441.643 shall be expedited by the court and may be given precedence over other suits.

441.550. NOTICE OF APPLICATION FILED WITH RECORDER OF DEEDS. — In any application for receivership brought pursuant to sections 441.500 to 441.643, the county [or], municipality, **local housing corporation or neighborhood association** shall file for record, with the recorder of deeds of the county in which any such real estate is situated, a written notice of the pendency of the suit pursuant to the requirements of section 527.260, RSMo. From the time of filing such notice the pendency of suit shall be constructive notice to persons thereafter acquiring an interest in the building.

441.590. COURT ORDERS, PROVISIONS. — 1. The court may, in any order entered pursuant to section 441.570:

(1) Authorize the receiver to draw upon the rents deposited in court to pay for the cost of necessary repairs upon presentment to the court of the original copy of any invoice for work performed or materials purchased;

(2) Appoint the code enforcement agency, the mortgagee or other lienor of record, a local housing corporation established to promote housing development and conservation in the area in which such property that is the subject of receivership is located **or, if no local housing corporation exists for such area, then the local neighborhood association**, a licensed attorney or real estate broker, or any other qualified person, as a receiver provided, however, that all lienholders of record shall be given the right of first refusal to serve as receiver in the order in which their lien appears of record. In the event of the refusal of all lienholders of record to serve as receiver or in the absence of any lienholders of record, the local housing corporation that is established to promote housing development and conservation in the area in which such property that is the subject of receivership is located, if any, shall be given the right of first refusal to serve as receiver for any residential property consisting of four units or less; **provided that, if no local housing corporation exists for such area, then the local neighborhood association shall be given such right of first refusal; or**

(3) Where the building is vacant, appoint the code enforcement agency, the mortgagee or other lienor of record, a local housing corporation established to promote development and conservation in the area in which such property that is the subject of receivership is located **or, if no local housing corporation exists for such area, then the local neighborhood association**, a licensed attorney or real estate broker, or any other qualified person, as a receiver to remove all of the housing code violations which constitute a nuisance as found by the court, except that all lienholders of record shall be given the right of first refusal to serve as receiver in the order in which their liens appear of record. In the event of the refusal of all lienholders of

record to serve as receiver or in the absence of any lienholders of record, the local housing corporation that is established to promote development and conservation in the area in which such property that is the subject of receivership is located, if any, shall be given the right of first refusal to serve as receiver for any residential property consisting of four units or less; **provided that, if no local housing corporation exists for such area, then the local neighborhood association shall be given such right of first refusal.**

2. The court may allow a receiver reasonable and necessary expenses, payable from the rent moneys.

3. No receiver appointed shall serve without bond. The amount and form of such bond shall be approved by the court and the cost of such bond shall be paid from the moneys so deposited.

4. The receiver may, on order of the court, take possession of the property, collect all rents and profits accruing from the property, and pay all costs of management, including all insurance premiums and all general and special real estate taxes or assessments.

5. The receiver shall with all reasonable speed remove all of the housing code violations which constitute a nuisance as found by the court, and may make other improvements to effect a rehabilitation of the property in such fashion as is consistent with maintaining safe and habitable conditions over the remaining useful life of the property. The receiver shall have the power to let contracts therefor, in accordance with the provisions of local laws, ordinances, rules and regulations applicable to contracts.

6. The receiver may with the approval of the circuit court borrow money against, and encumber, the property as security therefor in such amounts as may be necessary to carry out his or her responsibilities pursuant to sections 441.500 to 441.643. The circuit court may authorize the receiver to issue receiver's certificates as security against such borrowings, which certificates shall be authorized investments for banks and savings and loan associations, and shall constitute a first lien upon the property and its income and shall be superior to any claims of the receiver and to all prior or subsequent liens and encumbrances except taxes and assessments, and shall be enforceable as provided in subsection 8 of this section.

7. In addition to issuance of receiver certificates, the receiver may pledge the rentals from the property and borrow or encumber the property on the strength of the rental income.

8. Any receiver appointed pursuant to the provisions of sections 441.500 to 441.643 shall have a lien, for the expenses necessarily incurred in the execution of an order, upon the rents receivable from the premises on or in respect of which the work required by such order has been done or expenses incurred, and this lien shall have priority over all other liens and encumbrances of record upon the rents receivable from the premises, except taxes, assessments, receiver's certificates, and mortgages recorded prior to October 13, 1969.

9. For the purposes of this section, "local housing corporation" shall mean only those local housing corporations established prior to [April 28, 1999] **August 28, 2001.**

447.700. DEFINITIONS. — As used in sections 447.700 to 447.718, the following terms mean:

(1) "Abandoned property", real property previously used for, or which has the potential to be used for, commercial or industrial purposes which reverted to the ownership of the state, a county, or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure; or a privately owned property endorsed by the city, or county if the property is not in a city, for inclusion in the program which will be transferred to a person other than the potentially responsible party as defined in chapter 260, RSMo, and has been vacant for a period of not less than three years from the time an application is made to the department of economic development;

(2) "Allowable cost", all or part of the costs of project facilities, including the costs of acquiring the property, relocating any remaining occupants, constructing, reconstructing,

rehabilitating, renovating, enlarging, improving, equipping or furnishing project facilities, demolition, site clearance and preparation, **backfill**, supplementing and relocating public capital improvements or utility facilities, designs, plans, specifications, surveys, studies and estimates of costs, expenses necessary or incident to determining the feasibility or practicability of assisting an eligible project or providing project facilities, architectural, engineering and legal service fees and expenses, the costs of conducting any other activities as part of a voluntary remediation and such other expenses as may be necessary or incidental to the establishment or development of an eligible project and reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs. **Allowable costs shall also include the demolition and reconstruction of any building or structure which is not the object of remediation as defined in section 260.565, RSMo, but which is located on the site of an abandoned or underutilized property approved for financial assistance pursuant to sections 447.702 to 447.708, provided that any such demolition is contained in a redevelopment plan approved by the director of the department of economic development and the municipal or county government having jurisdiction in the area in which the project is located;**

(3) "Applicant", the person that submits an application for consideration of a project or location or real property for financial, tax credit or other assistance pursuant to sections 447.700 to 447.718; an applicant may not be any party who intentionally or negligently caused the release or potential release of hazardous substances at the eligible project as that term is defined pursuant to chapter 260, RSMo;

(4) "Eligible project", abandoned or underutilized property to be acquired, established, expanded, remodeled, rehabilitated or modernized for industry, commerce, distribution or research, or any combination thereof, the operation of which, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities, attract new businesses to the state, prevent existing businesses from leaving the state and improve the economic welfare of the people of the state. The term "eligible project", without limitation, includes voluntary remediation conducted pursuant to sections 260.565 to 260.575, RSMo. To be an "eligible project" pursuant to sections 447.700 to 447.718, the obligations of the prospective applicant and the governmental agency shall be defined in a written agreement signed by both parties. The facility, when completed, shall be operated in compliance with applicable federal, state and local environmental statutes, regulations and ordinances. An "eligible project" shall be determined by consideration of the entire project. The definition or identification of an "eligible project" shall not be segmented into parts to separate commercial and industrial uses from residential uses. **Any property immediately adjacent to any abandoned or underutilized property may also be an "eligible project" pursuant to sections 447.700 to 447.718, provided that the abandoned or underutilized property otherwise meets the qualifications of this subdivision;**

(5) "Financial assistance", direct loans, loan guarantees, and grants pursuant to sections 447.702 to 447.706; and tax credits, inducements and abatements pursuant to section 447.708;

(6) "Governmental action", any action by a state, county or municipal agency relating to the establishment, development or operation of an eligible project and project facilities that the governmental agency has authority to take or provide for the purpose under law, charter or ordinance, including but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies;

(7) "Governmental agency", the state, county and municipality and any department, division, commission, agency, institution or authority, including a municipal corporation, township, and any agency thereof and any other political subdivision or public corporation; the United States or any agency thereof; any agency, commission or authority established pursuant to an interstate compact or agreement and any combination of the above;

(8) "Person", any individual, firm, partnership, association, limited liability company, corporation or governmental agency, and any combination thereof;

(9) "Project facilities", buildings, structures and other improvements and equipment and other property or fixtures, excluding small tools, supplies and inventory, and public capital improvements;

(10) "Public capital improvements", capital improvements or facilities owned by a governmental agency and which such agency has authority to acquire, pay the costs of, maintain, relocate or operate, or to contract with other persons to have the same done, including but not limited to, highways, roads, streets, electrical, gas, water and sewer facilities, railroad and other transportation facilities, and air and water pollution control and solid waste disposal facilities;

(11) "Underutilized", real property of which less than thirty-five percent of the commercially usable space of the property and improvements thereon, are used for their most commercially profitable and economically productive use; or property that was used by the state of Missouri as a correctional center for a period of at least one hundred years and which requires environmental remediation before redevelopment can occur, if approval from the general assembly has been given for any improvements to, or remediation, lease or sale of, said property;

(12) "Voluntary remediation", an action to remediate hazardous substances and hazardous waste pursuant to sections 260.565 to 260.575, RSMo.

447.708. TAX CREDITS, CRITERIA, CONDITIONS — DEFINITIONS. — 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to [135.256] **135.257**, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is "a person difficult to employ" as defined by section 135.240, RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4) **of subsection 1** of section 135.225, RSMo;

(3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245, RSMo, for application and use of the refund and the eligibility requirements of this section;

(4) The eligible project operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

(5) The eligible project operator shall file such reports as may be required by the director of economic development or the director's designee;

(6) The taxpayer may claim the state tax credits authorized by this subsection and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship, partnership or corporation described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption based on the projected net state economic benefits attributed to the eligible project;

(7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning as defined in subdivision (9) of section 135.100, RSMo;

(8) For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

(9) In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner and operator of the eligible project shall provide the director with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating, to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If the director finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, the director may deny the taxpayer's request to claim tax benefits;

(10) Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined

by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during which the eligible project was in operation, by the number of full calendar months during such period;

(11) For the purpose of this section, "new qualified investment" means new business facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo, which is used at and in connection with the eligible project. "New qualified investment" shall not include small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand held.

2. The determination of the director of economic development pursuant to subsection 1 of this section, shall not affect requirements for the prospective purchaser to obtain the approval of the granting of real property tax abatement by the municipal or county government where the eligible project is located.

3. (1) The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits allowed in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition [and], asbestos abatement, and direct utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo.

(2) **The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits otherwise allowed in this section, grant a demolition tax credit to the applicant for up to one hundred percent of the costs of demolition that are not part of the voluntary remediation activities, provided that the demolition is either on the property where the voluntary remediation activities are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development.**

(3) The amount of remediation **and demolition** tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

(4) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation **and demolition** tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years.

(5) The project facility [is] **shall be** projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development, **to be eligible for tax credits pursuant to this section.**

(6) No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the

department of natural resources issues a "Letter of Completion" letter or covenant not to sue following completion of the voluntary remediation activities. It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility.

4. In the exercise of the sound discretion of the director of the department of economic development or the director's designee, the tax credits and exemptions described in this section may be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions set forth in this section. In making such a determination, the director shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and operator. The director shall also consider changes in general economic conditions and the recommendation of the director of the department of natural resources, or his or her designee, concerning the severity, scope, nature, frequency and extent of any violations of the environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo. The director of the department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

- (1) That portion of the taxpayer's income attributed to the eligible project; or
- (2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which

the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

11. For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership.

The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

447.721. CONTIGUOUS PROPERTY REDEVELOPMENT FUND CREATED — GRANTS ISSUED TO CERTAIN COUNTIES BY DEPARTMENT, CRITERIA — RULEMAKING AUTHORITY — EXPIRATION DATE. — 1. There is hereby created in the state treasury the "Contiguous Property Redevelopment Fund", which shall consist of all moneys appropriated to the fund, all moneys required by law to be deposited in the fund, and all gifts, bequests or donations of any kind to the fund. The fund shall be administered by the department of economic development. Subject to appropriation, the fund shall be used solely for the administration of and the purposes described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the general revenue fund at the end of the biennium; provided, however, that all moneys in the fund on August 28, 2006, shall be transferred to the general revenue fund and the fund shall be abolished as of that date. All interest and moneys earned on investments from moneys in the fund shall be credited to the fund.

2. The governing body of any city not within a county, any county of the first classification without a charter form of government and a population of more than two hundred seven thousand but less than three hundred thousand, any county of the first classification with a population of more than nine hundred thousand, any city with a

population of more than three hundred fifty thousand that is located in more than one county or any county of the first classification with a charter form of government and a population of more than six hundred thousand but less than nine hundred thousand may apply to the department of economic development for a grant from the contiguous property redevelopment fund. The department of economic development may promulgate the form for such applications in a manner consistent with this section. Grants from the fund may be made to the governing body to assist the body both acquiring multiple contiguous properties within such city and engaging in the initial redeveloping of such properties for future use as private enterprise. For purposes of this section, "initial redeveloping" shall include all allowable costs, as that term is defined in section 447.700, and any other costs involving the improvement of the property to a state in which its redevelopment will be more economically feasible than such property would have been if such improvements had not been made.

3. In awarding grants pursuant to this section, the department shall give preference to those projects which propose the assembly of a greater number of acreage than other projects and to those projects which show that private interest exists for usage of the property once any redevelopment aided by grants pursuant to this section is completed.

4. The department of economic development may promulgate rules for the enforcement of this section. No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.

5. The provisions of this section shall expire on August 28, 2006.

Approved June 29, 2001

HB 144 [CCS#2 SS SCS HCS HB 144 & 46]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires check for outstanding arrest warrants before releasing a prisoner.

AN ACT to repeal sections 32.056, 575.230 and 577.020, RSMo, relating to public safety, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 32.056. Confidentiality of motor vehicle or driver registration records of county, state or federal parole officers or federal pretrial officers.
- 221.510. Pending outstanding warrants in MULES and NCIC systems, inquiry conducted, when.
- 575.230. Aiding escape of a prisoner.
- 577.020. Chemical tests for alcohol content of blood — consent implied, when — administered, when, how — videotaping of chemical or field sobriety test admissible evidence.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.056, 575.230 and 577.020, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 32.056, 221.510, 575.230 and 577.020, to read as follows:

32.056. CONFIDENTIALITY OF MOTOR VEHICLE OR DRIVER REGISTRATION RECORDS OF COUNTY, STATE OR FEDERAL PAROLE OFFICERS OR FEDERAL PRETRIAL OFFICERS. — The

department of revenue shall not release the home address or any other information contained in the department's motor vehicle or driver registration records regarding any person who is a county, state or federal parole officer or who is a federal pretrial officer **or who is a peace officer pursuant to section 590.100, RSMo, or a member of the parole officer's, pretrial officer's or peace officer's immediate family** based on a specific request for such information from any person. Any person who is a county, state or federal parole officer or who is a federal pretrial officer **or who is a peace officer pursuant to section 590.100, RSMo**, may notify the department of such status and the department shall protect the confidentiality of the records on such a person **and his or her immediate family** as required by this section. This section shall not prohibit the department from releasing information on a motor registration list pursuant to section 32.055 **or from releasing information on any officer who holds a class A, B or C commercial driver's license pursuant to the Motor Carrier Safety Improvement Act of 1999, as amended, 49 U.S.C. 31309.**

221.510. PENDING OUTSTANDING WARRANTS IN MULES AND NCIC SYSTEMS, INQUIRY CONDUCTED, WHEN. — 1. Every chief law enforcement official, sheriff, jailer, department of corrections official and regional jail district official shall conduct an inquiry of pending outstanding warrants for misdemeanors and felonies through the Missouri Uniform Law Enforcement System (MULES) and the National Crime Information Center (NCIC) System on all prisoners about to be released, whether convicted of a crime or being held on suspicion of charges.

2. No prisoner, whether convicted of a crime or being held on suspicion of any charge, shall be released or transferred from a correctional facility or jail to any other facility prior to having a local, state or federal warrant check conducted by a law enforcement official, sheriff or authorized member of a correctional facility or jail.

3. If any prisoner warrant check indicates outstanding charges or outstanding warrants from another jurisdiction, it shall be the duty of the official conducting the warrant check to inform the agency that issued the warrant that the correctional facility or jail has such prisoner in custody. That prisoner shall not be released except to the custody of the jurisdictional authority that had issued the warrant, unless the warrant has been satisfied or dismissed, or unless the warrant issuing agency has notified the correctional facility or jail holding the prisoner that the agency does not wish the prisoner to be transferred or the warrant to be pursued.

4. If any person has actual knowledge that a violation of this section is occurring or has occurred, such person may report the information to the attorney general of the state of Missouri, who may appoint a sheriff of another county to investigate the report.

5. If a law enforcement official, sheriff or authorized member of the correctional facility or jail purposely fails to perform a warrant check with the intent to release a prisoner with outstanding warrants and which results in the release of a prisoner with outstanding warrants, that individual shall be guilty of a class A misdemeanor.

6. A law enforcement official, sheriff or authorized member of the correctional facility or jail shall not be deemed to have purposely failed to perform a warrant check with the intent to release a prisoner in violation of this section, if he or she is unable to complete the warrant check because the MULES or NCIC computer systems were not accessible.

575.230. AIDING ESCAPE OF A PRISONER. — 1. A person commits the crime of aiding escape of a prisoner if [he] **the person:**

(1) Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other crime; or

(2) Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement.

2. Aiding escape of a prisoner by introducing a deadly weapon or dangerous instrument into a place of confinement is a class B felony. Aiding escape of a prisoner being held in custody or confinement on the basis of a felony charge or conviction is a class [D] B felony. Otherwise, aiding escape of a prisoner is a class A misdemeanor.

577.020. CHEMICAL TESTS FOR ALCOHOL CONTENT OF BLOOD — CONSENT IMPLIED, WHEN — ADMINISTERED, WHEN, HOW — VIDEOTAPING OF CHEMICAL OR FIELD SOBRIETY TEST ADMISSIBLE EVIDENCE. — 1. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to, subject to the provisions of sections 577.020 to 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(2) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater; [or]

(4) If the person is under the age of twenty-one, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater[.];

(5) If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or a readily apparent serious physical injury as defined in section 565.002, RSMo, and has been arrested as evidenced by the issuance of a Uniform Traffic Ticket for the violation of any state law or county or municipal ordinance with the exception of equipment violations contained in chapter 306, RSMo, or similar provisions contained in county or municipal ordinances; or

(6) If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality.

The test shall be administered at the direction of the law enforcement officer whenever the person has been arrested or stopped for any reason.

2. The implied consent to submit to the chemical tests listed in subsection 1 of this section shall be limited to not more than two such tests arising from the same arrest, incident or charge.

3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid pursuant to the provisions of sections 577.020 to 577.041 shall be performed according to methods approved by the state department of health by licensed medical personnel or by a person possessing a valid permit issued by the state department of health for this purpose.

4. The state department of health shall approve satisfactory techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of sections 577.020 to 577.041 and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health.

5. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer

a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

6. Upon the request of the person who is tested, full information concerning the test shall be made available to [him] **such person**.

7. Any person given a chemical test of the person's breath pursuant to subsection 1 of this section or a field sobriety test may be videotaped during any such test at the direction of the law enforcement officer. Any such video recording made during the chemical test pursuant to this subsection or a field sobriety test shall be admissible as evidence at either any trial of such person for either a violation of any state law or county or municipal ordinance, or any license revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

Approved May 31, 2001

HB 157 [CCS SCS HB 157]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the time limits for issuing marriage licenses.

AN ACT to repeal sections 193.185, 451.022, 451.040, 451.080 and 451.130, RSMo 2000, relating to marriage, and to enact in lieu thereof five new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 193.185. Marriage report — certification.
- 451.022. Public policy, same sex marriages prohibited — license may not be issued.
- 451.022. Public policy, same sex marriages prohibited — license may not be issued.
- 451.040. Marriage license required, waiting period — application, contents — license void when — common law of marriages void — lack of authority to perform marriage, effect.
- 451.080. Recorder to issue license — form of.
- 451.130. Penalty for failure to issue, record or return license.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 193.185, 451.022, 451.040, 451.080 and 451.130, RSMo 2000, are repealed and five new sections enacted in lieu thereof, to be known as sections 193.185, 451.022, 451.040, 451.080 and 451.130, to read as follows:

193.185. MARRIAGE REPORT — CERTIFICATION. — 1. A report of each marriage performed in this state shall be filed with the department and shall be registered if it has been completed and filed in accordance with this section.

2. The official who issues the marriage license shall prepare the report on the form prescribed and furnished by the state registrar upon the basis of information obtained from one of the parties to be married.

3. Each person who performs a marriage shall certify the fact of marriage and return the license to the official who issued the license within [ten] **fifteen** days after the ceremony. This license shall be signed by the witnesses to the ceremony. A marriage certificate shall be given to the parties.

4. Every official issuing marriage licenses shall complete and forward to the department on or before the fifteenth day of each calendar month the reports of marriages returned to such official during the preceding calendar month.

[451.022. PUBLIC POLICY, SAME SEX MARRIAGES PROHIBITED — LICENSE MAY NOT BE ISSUED. — 1. It is the public policy of this state to recognize marriage only between a man and a woman.

2. Any purported marriage not between a man and a woman is invalid.

3. No recorder shall issue a marriage license, except to a man and a woman.]

451.022. PUBLIC POLICY, SAME SEX MARRIAGES PROHIBITED — LICENSE MAY NOT BE ISSUED. — 1. It is the public policy of this state to recognize marriage only between a man and a woman.

2. Any purported marriage not between a man and a woman is invalid.

3. No recorder shall issue a marriage license, except to a man and a woman.

4. A marriage between persons of the same sex will not be recognized for any purpose in this state even when valid where contracted.

451.040. MARRIAGE LICENSE REQUIRED, WAITING PERIOD — APPLICATION, CONTENTS — LICENSE VOID WHEN — COMMON LAW OF MARRIAGES VOID — LACK OF AUTHORITY TO PERFORM MARRIAGE, EFFECT. — 1. Previous to any marriage in this state, a license for that purpose shall be obtained from the officer authorized to issue the same, and no marriage contracted shall be recognized as valid unless the license has been previously obtained, and unless the marriage is solemnized by a person authorized by law to solemnize marriages.

2. Before applicants for a marriage license shall receive a license, and before the recorder of deeds shall be authorized to issue a license, the parties to the marriage shall present an application for the license, duly executed and signed in the presence of the recorder of deeds or their deputy. Each application for a license shall contain the Social Security number of the applicant, **provided that the applicant in fact has a Social Security number, or the applicant shall sign a statement provided by the recorder that the applicant does not have a Social Security number.** The Social Security number contained in an application for a marriage license shall be exempt from examination and copying pursuant to section 610.024, RSMo. Upon the expiration of three days after the receipt of the application the recorder of deeds shall issue the license, unless one of the parties withdraws the application. The license shall be void after thirty days from the date of issuance.

3. Provided, however, that such license may be issued on order of a circuit or associate circuit judge of the county in which the license is applied for, without waiting three days, such license being issued only for good cause shown and by reason of such unusual conditions as to make such marriage advisable.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

5. Common-law marriages shall be null and void.

6. Provided, however, that no marriage shall be deemed or adjudged invalid, nor shall the validity be in any way affected for want of authority in any person so solemnizing the marriage pursuant to section 451.100, if consummated with the full belief on the part of the persons, so married, or either of them, that they were lawfully joined in marriage.

451.080. RECORDER TO ISSUE LICENSE — FORM OF. — 1. The recorders of the several counties of this state, and the recorder of the city of St. Louis, shall, when applied to by any person legally entitled to a marriage license, issue the same which may be in the following form:
State of Missouri)

) ss.

) County of)

This license authorizes any judge, associate circuit judge, licensed or ordained preacher of the gospel, or other person authorized under the laws of this state, to solemnize marriage between A B of, county of and state of, who is the age of eighteen years, and C D of, in the county of, state of, who is the age of eighteen years.

2. If the man is under eighteen or the woman under eighteen, add the following:

The custodial parent or guardian, as the case may be, of the said A B or C D (A B or C D, as the case may require), has given his or her assent to the said marriage.

Witness my hand as recorder, with the seal of office hereto affixed, at my office, in, the day of, [19]20., recorder.

3. On which such license the person solemnizing the marriage shall, within [ninety] **fifteen** days after the issuing thereof, make as near as may be the following return, and return such license to the officer issuing the same:

State of Missouri)

) ss.

) County of)

This is to certify that the undersigned did at, in said county, on the day of A. D. [19]20., unite in marriage the above-named persons.

451.130. PENALTY FOR FAILURE TO ISSUE, RECORD OR RETURN LICENSE. — 1. If any recorder willfully neglect or refuse to issue a license to any person legally entitled thereto on application, on payment or tender of the fee provided for in section 451.150, or shall fail to refuse to record such license, with the return thereon, as herein provided, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five nor more than one hundred dollars.

2. Every officer or person who shall fail to return a license within [ninety] **fifteen** days after the issuing of the same, or who shall make a false return thereon, or any recorder who shall willfully make a false record of any marriage license or return thereon, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished as provided in the preceding part of this section.

Approved July 13, 2001

HB 163 [HB 163]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands sources of funding for the Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.

AN ACT to repeal section 43.265, RSMo 2000, relating to the highway patrol's motor vehicle and aircraft revolving fund, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

43.265. Motor vehicle and aircraft revolving fund, purpose — exempt from transfer to general revenue.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 43.265, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 43.265, to read as follows:

43.265. MOTOR VEHICLE AND AIRCRAFT REVOLVING FUND, PURPOSE — EXEMPT FROM TRANSFER TO GENERAL REVENUE. — There is hereby created in the state treasury the "Highway Patrol's Motor Vehicle and Aircraft Revolving Fund", which shall be administered by the superintendent of the highway patrol. All funds received by the highway patrol from:

- (1) [Government agencies] **Any source** for purchase of highway patrol motor vehicles;
- (2) **Any source for reimbursement of costs associated with the official use of highway patrol vehicles;**
- (3) **Any source for restitution for damage to or loss of a highway patrol vehicle or aircraft;**

(4) Any other source for the purchase of highway patrol aircraft or aircraft parts; and
 [(3)] (5) Government agencies for the reimbursement of costs associated with aircraft flights flown on their behalf by the highway patrol; shall be credited to the fund. The state treasurer is the custodian of the fund and shall approve disbursements from the fund subject to appropriation and as provided by law and the constitution of this state at the request of the superintendent of the highway patrol. The balances from this fund shall be used for the purchase of highway patrol motor vehicles, highway patrol aircraft or aircraft parts and operational costs. Any unexpended balance in fund at the end of the fiscal year shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund.

Approved July 10, 2001

HB 180 [HB 180]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a Women Offender Program in the Department of Corrections.

AN ACT to repeal section 217.015, RSMo 2000, relating to the department of corrections, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
 217.015. Divisions created — sections authorized — purpose of department — women offender program established, purpose — advisory committee established, membership, purpose.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 217.015, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 217.015, to read as follows:

217.015. DIVISIONS CREATED — SECTIONS AUTHORIZED — PURPOSE OF DEPARTMENT — WOMEN OFFENDER PROGRAM ESTABLISHED, PURPOSE — ADVISORY COMMITTEE ESTABLISHED, MEMBERSHIP, PURPOSE. — 1. The department shall supervise and manage all correctional centers, and probation and parole of the state of Missouri.

2. The department shall be composed of the following divisions:
 - (1) The division of human services;
 - (2) The division of adult institutions;

- (3) The board of probation and parole; and
- (4) The division of offender rehabilitative services.

3. Each division may be subdivided by the director into such sections, bureaus, or offices as is necessary to carry out the duties assigned by law.

4. The department shall operate a women offender program to be supervised by a director of women's programs. The purpose of the women offender program shall be to ensure that female offenders are provided a continuum of supervision strategies and program services reflecting best practices for female probationers, prisoners and parolees in areas including but not limited to classification, diagnostic processes, facilities, medical and mental health care, child custody and visitation.

5. There shall be an advisory committee under the direction of the director of women's programs. The members of the committee shall include the director of the office of women's health, the director of the department of mental health or a designee and four others appointed by the director of the department of corrections. The committee shall address the needs of women in the criminal justice system as they are affected by the changes in their community, family concerns, the judicial system and the organization and available resources of the department of corrections.

Approved July 9, 2001

HB 202 [SCS HB 202]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes procedural requirements of, increases tax ceiling for, and grants additional powers to, transportation development districts.

AN ACT to repeal sections 238.207, 238.216, 238.220, 238.235 and 238.252, RSMo 2000, relating to transportation development districts, and to enact in lieu thereof five new sections relating to the same subject, with an emergency clause.

SECTION

- A. Enacting clause.
- 238.207. Creation of district, procedures — district to be contiguous, size requirements — petition, contents.
- 238.216. Election procedure, duties of court — application for ballot, contents — mail-in elections, affidavit form, procedure — unanimous petition submitted, when — results entered, how.
- 238.220. Directors, election of, how, qualifications — advisors, appointed when, duties.
- 238.235. Sales tax, certain districts, exemptions from tax — election, ballot form — procedures for collection, distribution, use — repeal of tax.
- 238.252. Powers — generally.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 238.207, 238.216, 238.220, 238.235 and 238.252, RSMo 2000, are repealed and five new sections enacted in lieu thereof, to be known as sections 238.207, 238.216, 238.220, 238.235 and 238.252, to read as follows:

238.207. CREATION OF DISTRICT, PROCEDURES — DISTRICT TO BE CONTIGUOUS, SIZE REQUIREMENTS — PETITION, CONTENTS. — 1. Whenever the creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed

district, **except public streets**, may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties. **Property separated only by public streets shall be considered contiguous.**

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of [that city or county] **a local transportation authority** acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(4) A general description of each project proposed to be undertaken by that district, including a description of the approximate location of each project;

(5) The name of the proposed district;

(6) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;

(7) A statement that the terms of office of initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

(8) If the petition was filed by registered voters or by a governing body, a request that the question be submitted to the qualified voters [residing] within the limits of the proposed district whether they will establish a transportation development district to develop a specified project or projects;

(9) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(10) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

238.216. ELECTION PROCEDURE, DUTIES OF COURT — APPLICATION FOR BALLOT, CONTENTS — MAIL-IN ELECTIONS, AFFIDAVIT FORM, PROCEDURE — UNANIMOUS PETITION SUBMITTED, WHEN — RESULTS ENTERED, HOW. — 1. Except as otherwise provided in section 238.220 with respect to the election of directors, in order to call any election required or allowed under sections 238.200 to 238.275, the circuit court shall:

(1) Order the county clerk to cause the questions to appear on the ballot on the next regularly scheduled general, primary or special election day, which date shall be the same in each county or portion of a county included within and voting upon the proposed district; [or]

(2) If the election is to be a mail-in election, specify a date on which ballots for the election shall be mailed, which date shall be a Tuesday, and shall be not earlier than the eighth Tuesday

from the issuance of the order, and shall not be on the same day as an election conducted under the provisions of chapter 115, RSMo; or

(3) If all the owners of property in the district joined in the petition for formation of the district, such owners may cast their ballot by unanimous petition approving any measure submitted to them as voters pursuant to this chapter. Each owner shall receive one vote per acre owned. Fractional votes shall be allowed. The petition shall be submitted to the circuit court clerk who shall verify the authenticity of all signatures thereon. The filing of a unanimous petition shall constitute an election under sections 238.200 to 238.275 and the results of said election shall be entered pursuant to subsection 6 of section 238.216.

2. Application for a ballot shall be conducted as follows:

(1) Only qualified voters shall be entitled to apply for a ballot;
 (2) Such persons shall apply with the clerk of the circuit court in which the petition was filed;

(3) Each person applying shall provide:

(a) Such person's name, address, mailing address, and phone number;
 (b) An authorized signature; and
 (c) Evidence that such person is entitled to vote. Such evidence shall be:
 a. For resident individuals, proof of registration from the election authority;
 b. For owners of real property, a tax receipt or deed or other document which evidences ownership, and identifies the real property by location;

(4) No person shall apply later than the fourth Tuesday before the date for mailing ballots specified in the circuit court's order.

3. If the election is to be a mail-in election, the circuit court shall mail a ballot to each qualified voter who applied for a ballot pursuant to subsection 2 of this section along with a return addressed envelope directed to the circuit court clerk's office with a sworn affidavit on the reverse side of such envelope for the voter's signature. Such affidavit shall be in the following form:

I hereby declare under penalties of perjury that I am qualified to vote, or to affix my authorized signature in the name of an entity which is entitled to vote, in this election.

Subscribed and sworn to before me this day of, [19] 20....

.....
 Authorized Signature

.....
 Printed Name of Voter

.....
 Signature of notary or other
 officer authorized to
 administer oaths.

.....
 Mailing Address of Voter
 (if different)

4. Except as otherwise provided in subsection 2 of section 238.220, with respect to the election of directors, each qualified voter shall have one vote. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. Each voted ballot shall be signed with the authorized signature.

5. Mail-in voted ballots shall be returned to the circuit court clerk's office by mail or hand delivery no later than 5:00 p.m. on the sixth Tuesday after the date for mailing the ballots as set forth in the circuit court's order. The circuit court's clerk shall transmit all voted ballots to a team of judges of not less than four, with an equal number from each of the two major political parties. The judges shall be selected by the circuit court from lists compiled by the election authority.

Upon receipt of the voted ballots, the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the circuit court. Any qualified voter who voted in such election may contest the result in the same manner as provided in chapter 115, RSMo.

6. The results of the election shall be entered upon the records of the circuit court of the county in which the petition was filed. Also, a certified copy thereof shall be filed with the county clerk of each county in which a portion of the proposed district lies, who shall cause the same to be spread upon the records of the county commission.

238.220. DIRECTORS, ELECTION OF, HOW, QUALIFICATIONS — ADVISORS, APPOINTED WHEN, DUTIES. — 1. Notwithstanding anything to the contrary contained in section 238.216, if any persons eligible to be registered voters reside within the district the following procedures shall be followed:

(1) After the district has been declared organized, the court shall upon petition of any interested person order the county clerk to cause an election to be held in all areas of the district within one hundred twenty days after the order establishing the district, to elect the district board of directors which shall be not less than five nor more than fifteen;

(2) Candidates shall pay the sum of five dollars as a filing fee to the county clerk and shall file with the election authority of such county a statement under oath that he **or she** possesses all of the qualifications set out in this section for a director. Thereafter, such candidate shall have his **or her** name placed on the ballot as a candidate for director;

(3) The director or directors to be elected shall be elected at large. The candidate receiving the most votes from qualified voters shall be elected to the position having the longest term, the second highest total votes elected to the position having the next longest term, and so forth. Each initial director shall serve the one-, two- or three-year term to which he **or she** was elected, and until [his] a successor is duly elected and qualified. Each successor director shall serve a three-year term. The directors shall nominate and elect an interim director to complete any unexpired term of a director caused by resignation or disqualification; and

(4) Each director shall be a resident of the district. Directors shall be registered voters at least twenty-one years of age.

2. Notwithstanding anything to the contrary contained in section 238.216, if no persons eligible to be registered voters reside within the district, the following procedures shall apply:

(1) Within thirty days after the district has been declared organized, the circuit clerk of the county in which the petition was filed shall, upon giving notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, call a meeting of the owners of real property within the district at a day and hour specified in a public place in the county in which the petition was filed for the purpose of electing a board of not less than five and not more than fifteen directors, to be composed of owners or representatives of owners of real property in the district; **provided that, if all the owners of property in the district joined in the petition for formation of the district, such meeting may be called by order of the court without further publication;**

(2) The property owners, when assembled, shall organize by the election of a chairman and secretary of the meeting who shall conduct the election. At the election, each acre of real property within the district shall represent one share, and each owner may have one vote in person or by proxy for every acre of real property owned by such person within the district;

(3) The one-third of the initial board members receiving the most votes shall be elected to positions having a term of three years. The one-third of initial board members receiving the next highest number of votes shall be elected to positions having a term of two years. The lowest one-third of initial board members receiving sufficient votes shall be elected to positions having a term of one year. Each initial director shall serve the term to which he **or she** was elected, and until [his] a successor is duly elected and qualified. Successor directors shall be elected in the

same manner as the initial directors at a meeting of the real property owners called by the board. Each successor director shall serve a three-year term. The directors shall nominate and elect an interim director to complete any unexpired term of a director caused by resignation or disqualification;

(4) Directors shall be at least twenty-one years of age.

3. The commission shall appoint one or more advisors to the board, who shall have no vote but shall have the authority to participate in all board meetings and discussions, whether open or closed, and shall have access to all records of the district and its board of directors.

4. If the proposed project is not intended to be merged into the state highways and transportation system under the commission's jurisdiction, the local transportation authority that will assume maintenance of the project shall appoint one or more advisors to the board of directors who shall have the same rights as advisors appointed by the commission.

238.235. SALES TAX, CERTAIN DISTRICTS, EXEMPTIONS FROM TAX — ELECTION, BALLOT FORM — PROCEDURES FOR COLLECTION, DISTRIBUTION, USE — REPEAL OF TAX.

— 1. (1) Any transportation development district may by resolution impose a transportation development district sales tax on all retail sales made in such transportation development district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, except such transportation development district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard motors nor to all sales of electricity or electrical current, water and gas, natural or artificial, nor to sales of service to telephone subscribers, either local or long distance. Such transportation development district sales tax may be imposed for any transportation development purpose designated by the transportation development district in its ballot of submission to its qualified voters, except that no resolution enacted pursuant to the authority granted by this section shall be effective unless the board of directors of the transportation development district submits to the qualified voters of the transportation development district, [at a state general, primary, or special election,] a proposal to authorize the board of directors of the transportation development district to impose a tax pursuant to the provisions of this section.

(2) The ballot of submission shall contain, but need not be limited to, the following language:

Shall the transportation development district of (transportation development district's name) impose a transportation development district-wide sales tax at the rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of (insert transportation development purpose)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the resolution and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors of the transportation development district shall have no power to impose the sales tax authorized by this section unless and until the board of directors of the transportation development district shall again have submitted another proposal to authorize it to impose the sales tax pursuant to the provisions of this section and such proposal is approved by a majority of the qualified voters voting thereon.

(3) The sales tax authorized by this section shall become effective on the first day of the month following adoption of the tax by the qualified voters.

(4) In each transportation development district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the transportation development district pursuant to this section to the retailer's sale price, and when so added such

tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

(5) In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the transportation development district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285, RSMo.

(6) All revenue received by a transportation development district from the tax authorized by this section which has been designated for a certain transportation development purpose shall be deposited in a special trust fund and shall be used solely for such designated purpose. Upon the expiration of the period of years approved by the qualified voters pursuant to subdivision (2) of this subsection or if the tax authorized by this section is repealed pursuant to subsection 6 of this section, all funds remaining in the special trust fund shall continue to be used solely for such designated transportation development purpose. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors in accordance with applicable laws relating to the investment of other transportation development district funds.

(7) The sales tax may be imposed [at a rate] **in increments** of one-eighth of one percent, [one-fourth of one percent, three-eighths of one percent, one-half of one percent or one] **up to a maximum of one** percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the transportation development district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo, except such transportation development district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard motors nor to public utilities. Any transportation development district sales tax imposed pursuant to this section shall be imposed at a rate that shall be uniform throughout the district.

2. The resolution imposing the sales tax pursuant to this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax and the tax shall be reported and returned to and collected by the transportation development district.

3. On and after the effective date of any tax imposed pursuant to this section, the transportation development district shall perform all functions incident to the administration, collection, enforcement, and operation of the tax. The tax imposed pursuant to this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the transportation development district.

4. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.

(2) All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section.

(3) The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the transportation development district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

(4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made applicable to any taxes collected pursuant to the provisions of this section.

(5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for violation of those sections are hereby made applicable to violations of this section.

(6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all retail sales except retail sales of motor vehicles shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

5. All sales taxes collected by the transportation development district shall be deposited by the transportation development district in a special fund to be expended for the purposes authorized in this section. The transportation development district shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to the inspection of officers of each transportation development district and the general public.

6. (1) No transportation development district imposing a sales tax pursuant to this section may repeal or amend such sales tax unless such repeal or amendment will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other obligations which it has issued or which have been issued by the commission or any local transportation authority to finance any project or projects.

(2) Whenever the board of directors of any transportation development district in which a transportation development sales tax has been imposed in the manner provided by this section receives a petition, signed by ten percent of the qualified voters calling for an election to repeal such transportation development sales tax, the board of directors shall, if such repeal will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other obligations which it has issued or which have been issued by the commission or any local transportation authority to finance any project or projects, submit to the qualified voters of such transportation development district a proposal to repeal the transportation development sales tax imposed pursuant to the provisions of this section. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal to repeal the transportation development sales tax, then the resolution imposing the transportation development sales tax, along with any amendments thereto, is repealed. If a majority of the votes cast by the qualified voters voting thereon are opposed to the proposal to repeal the transportation development sales tax, then the ordinance or resolution imposing the transportation development sales tax, along with any amendments thereto, shall remain in effect.

238.252. POWERS — GENERALLY. — In addition to all other powers granted by sections 238.200 to 238.275 the district shall have the following general powers:

(1) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;

(2) To fix compensation of its employees and contractors. All construction contracts in excess of five thousand dollars between the district and any private person, firm, or corporation shall be competitively bid and shall be awarded to the lowest and best bidder;

(3) To purchase any **real or** personal property necessary or convenient for its activities. All outright purchases of personal property in excess of one thousand dollars between the district and any private person, firm or corporation shall be competitively bid and shall be awarded to the lowest and best bidder;

- (4) To collect and disburse funds for its activities; and
- (5) To exercise such other implied powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

SECTION B. EMERGENCY CLAUSE. — Because transportation districts help reduce traffic congestion and improve overall highway safety, the repeal and reenactment of sections 238.207, 238.216, 238.220, 238.235 and 238.252 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 238.207, 238.216, 238.220, 238.235 and 238.252 of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2001

HB 207 [HCS HB 207]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits the Veterans' Commission Capital Improvement Trust Fund to issue matching grants for veterans service officer programs.

AN ACT to repeal sections 34.115 and 313.835, and to enact in lieu thereof two new sections relating to the veterans' commission capital improvement trust fund, with an emergency clause.

SECTION

- A. Enacting clause.
 - 34.115. Return of gifts made to state to donor, when, how — donation of motor vehicles to assist military veterans, return of title, when.
 - 313.835. Gaming commission fund created, purpose, expenditures — veterans' commission capital improvement trust fund, created, purpose, funding — disposition of proceeds of gaming commission fund — early childhood development education and care fund, created, purpose, funding, study, rules — grants for veterans' service officer program.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 34.115 and 313.835, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 34.115 and 313.835, to read as follows:

34.115. RETURN OF GIFTS MADE TO STATE TO DONOR, WHEN, HOW — DONATION OF MOTOR VEHICLES TO ASSIST MILITARY VETERANS, RETURN OF TITLE, WHEN. — **1.** The commissioner of administration, without charge therefor and without proceeding in the manner required for the disposal of surplus property, may return title to personal property to the person who, or entity which, donated the personal property to the state if the person who, or entity which, donated the personal property intends to donate to the state newer or superior personal property of the same type and intends to replace the function of the old personal property.

2. For a donation of a motor vehicle to assist military veterans made by a nonprofit organization to the state, the commissioner of administration, without charge therefor and without proceeding in the manner required for the disposal of surplus property, shall,

upon request, return title to such motor vehicle to the donor of the motor vehicle to the state if the donor intends to donate to the state a newer or superior motor vehicle of the same type to replace the function of the old motor vehicle.

313.835. GAMING COMMISSION FUND CREATED, PURPOSE, EXPENDITURES — VETERANS' COMMISSION CAPITAL IMPROVEMENT TRUST FUND, CREATED, PURPOSE, FUNDING — DISPOSITION OF PROCEEDS OF GAMING COMMISSION FUND — EARLY CHILDHOOD DEVELOPMENT EDUCATION AND CARE FUND, CREATED, PURPOSE, FUNDING, STUDY, RULES — GRANTS FOR VETERANS' SERVICE OFFICER PROGRAM. — 1. All revenue received by the commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the commission and admission fees authorized pursuant to the provisions of sections 313.800 to 313.850, except that portion of the admission fee, not to exceed one cent, that may be appropriated to the compulsive gamblers fund as provided in section 313.820, shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the sole purpose of funding the administrative costs of the commission, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of gambling operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. In each fiscal year, total revenues to the gaming commission fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal year. The remaining net proceeds in the gaming commission fund shall be distributed in the following manner:

(1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

(2) The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

(a) The construction, maintenance or renovation or equipment needs of veterans' homes in this state;

(b) The construction, maintenance, renovation, equipment needs and operation of veterans' cemeteries in this state;

(c) Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121, RSMo, as necessary to maintain solvency of the fund; [and]

(d) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans' commission capital improvement trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans' memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans' memorials shall be made only for applications received by the Missouri veterans' commission prior to July 1, 2004;

(e) **The issuance of matching fund grants for veterans' service officer programs to any federally chartered veterans' organization or municipal government agency that is**

certified by the Veterans Administration to process veteran claims within the Veterans Administration System; provided that such veterans' organization has maintained a veterans' service officer presence within the state of Missouri for the three-year period immediately preceding the issuance of any such grant. A total of seven hundred fifty thousand dollars in grants shall be made available annually with grants being issued in July of each year. Application for the matching grants shall be made through and approved by the Missouri veterans commission based on the requirements established by the commission;

(f) For payment of Missouri national guard and Missouri veterans' commission expenses associated with providing medals, medallions and certificates in recognition of service in the armed forces of the United States during World War II pursuant to sections 42.170 to 42.190, RSMo. Any funds remaining from the medals, medallions and certificates shall be used to pay for the buglers at veteran burials; and

(g) Fund transfers totaling ten million dollars to any municipality with a population greater than three hundred fifty thousand inhabitants and located in part in a county with a population greater than six hundred thousand inhabitants and with a charter form of government, for the sole purpose of the construction, restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I.

Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund;

(3) The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:

(a) Three million dollars shall be transferred to the veterans' commission capital improvement trust fund;

(b) Three million dollars shall be transferred to the Missouri national guard trust fund created in section 41.214, RSMo;

(c) Three million dollars shall be transferred to the Missouri college guarantee fund, established pursuant to the provisions of section 173.248, RSMo, and additional moneys as annually appropriated by the general assembly shall be appropriated to such fund;

(d) Subject to appropriations, one hundred percent of remaining net proceeds in the gaming commission fund except as provided in paragraph (l) of this subdivision, shall be transferred to the "Early Childhood Development, Education and Care Fund" which is hereby created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in which they are eligible to enroll in kindergarten, pursuant to section 160.053, RSMo, to enter school ready to learn. All moneys deposited in the early childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten;

(e) No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this paragraph to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys pursuant to the provisions of this paragraph and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of

such moneys pursuant to the provisions of this paragraph shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants.

- a. Grants or contracts may be provided for:
 - (i) Start-up funds for necessary materials, supplies, equipment and facilities; and
 - (ii) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;
- b. Grant and contract applications shall, at a minimum, include:
 - (i) A funding plan which demonstrates funding from a variety of sources including parental fees;
 - (ii) A child development, education and care plan that is appropriate to meet the needs of children;
 - (iii) The identity of any partner agencies or contractual service providers;
 - (iv) Documentation of community input into program development;
 - (v) Demonstration of financial and programmatic accountability on an annual basis;
 - (vi) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and
 - (vii) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;
- c. In awarding grants and contracts pursuant to this paragraph, the departments may give preference to programs which:
 - (i) Are new or expanding programs which increase capacity;
 - (ii) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;
 - (iii) Are programs designed for special needs children;
 - (iv) Are programs that offer services during nontraditional hours and weekends; or
 - (v) Are programs that serve a high concentration of low-income families;
- d. Beginning on August 28, 1998, the department of elementary and secondary education and the department of social services shall initiate and conduct a four-year study to evaluate the impact of early childhood development, education and care in this state. The study shall consist of an evaluation of children eligible for moneys pursuant to this paragraph, including an evaluation of the early childhood development, education and care of those children participating in such program and those not participating in the program over a four-year period. At the conclusion of the study, the department of elementary and secondary education and the department of social services shall, within ninety days of conclusion of the study, submit a report to the general assembly and the governor, with an analysis of the study required pursuant to this subparagraph, all data collected, findings, and other information relevant to early childhood development, education and care;
- (f) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. 9858c(c)(2)(A) and 42 U.S.C. 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds

shall be released to be used for supplementing the competitive grants and contracts program authorized pursuant to paragraph (e) of this subdivision;

(g) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization;

(h) No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods;

(i) In setting the value of parental certificates under paragraph (f) of this subdivision and payments under paragraph (h) of this subdivision, the department of social services may increase the value based on the following:

a. The adult caretaker of the children successfully participates in the parents as teachers program pursuant to the provisions of sections 178.691 to 178.699, RSMo, a training program provided by the department on early childhood development, education and care, the home-based Head Start program as defined in 42 U.S.C. 9832 or a similar program approved by the department;

b. The adult caretaker consents to and clears a child abuse or neglect screening pursuant to subdivision (1) of subsection 2 of section 210.152, RSMo; and

c. The degree of economic need of the family;

(j) The department of elementary and secondary education and the department of social services each shall by rule promulgated pursuant to chapter 536, RSMo, establish guidelines for the implementation of the early childhood development, education and care programs as provided in paragraphs (e) through (i) of this subdivision;

(k) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in paragraph (j) of this subdivision shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998;

(l) When the remaining net proceeds, as such term is used pursuant to paragraph (d) of this subdivision, in the gaming commission fund annually exceeds twenty-seven million dollars, one and one-half million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri college guarantee fund, established pursuant to the provisions of section 173.248, RSMo.

2. Upon request by the veterans' commission, the general assembly may appropriate moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide funding for veterans' services, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 23, 2001

HB 212 [SCS HB 212]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that merging mutual insurance companies need only provide notice in two daily newspapers designated by the Director of Insurance.

AN ACT to repeal sections 375.355 and 379.770, RSMo 2000, relating to policyholder notification in certain insurance contracts, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

375.355. Acquisition of control of one company by another, director may authorize, procedure, exceptions.

379.770. Mergers or consolidation of reciprocal exchanges or interinsurers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 375.355 and 379.770, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 375.355 and 379.770, to read as follows:

375.355. ACQUISITION OF CONTROL OF ONE COMPANY BY ANOTHER, DIRECTOR MAY AUTHORIZE, PROCEDURE, EXCEPTIONS. — 1. Any insurance company organized under the laws of this state may hereafter, with the approval of the director first obtained,

(1) Organize any subsidiary insurance company in which it shall own and hold not less than a majority of the common stock; or

(2) Acquire **control of another insurance company** by purchase, merger or otherwise [and hold not less than a majority of the stock of any other insurance company], regardless of the domicile of any company so organized or acquired, for the purpose of operating any such company under a plan of common control.

2. Whenever any insurance company shall propose under the provisions of this section to acquire **control of another insurance company** by purchase, **merger** or otherwise [not less than a majority of the stock of any other insurance company] or to dispose of any stock so purchased or so acquired, it shall present its petition to the director setting forth the terms and conditions of the proposed acquisition or disposition and praying for the approval of the acquisition or disposition. The director shall thereupon issue an order of notice, requiring notice to be given, to the policyholders of a mutual company and stockholders of a stock company, of the pendency of the petition, and the time and place at which the same will be heard, by publication of the order of notice in two daily newspapers designated by the director for at least once a week for two weeks before the time appointed for the hearing upon the petition; and any further notice which the director may require shall be given by the petitioners. At the time and

place fixed in the notice, or at such time and place as shall be fixed by adjournment, the director shall proceed with the hearing, and may make such examination into the affairs and conditions of the companies as he may deem proper. For the purpose of making the examination, or having the same made, the director may employ the necessary clerical, actuarial, legal, and other assistance. The director of the insurance department of this state shall have the same power to summon and compel the attendance and testimony of witnesses and the production of books and papers at the hearing as by law granted in examinations of companies. Any policyholder or stockholder of the company or companies may appear before the director and be heard in reference to the petition. The director, if satisfied that the **proposed acquisition or disposition was properly approved after notice as required by the articles and bylaws of the company or companies, and that the** interest of the policyholders of the company or companies is protected, and that no reasonable objection exists as to the acquisition or disposition, and that the acquisition will not tend to substantially lessen competition or create a monopoly, shall approve and authorize the proposed acquisition or disposition. All expenses and costs incident to the proceedings under this subsection shall be paid by the company or companies bringing the petition.

3. The shares of any subsidiary life insurance company acquired or held under the provisions of this section by a parent life insurance company organized under the provisions of chapter 376, RSMo, shall be eligible for deposit by the parent life insurance company as provided in section 376.170, RSMo, at a value no greater than the proportion of the capital and surplus of the subsidiary company as shown by its last annual statement filed in the state of its domicile represented by the shares held by the parent life insurance company, but only to the extent that the capital and surplus is represented by cash or securities of the kind and type eligible for deposit under the provisions of section 376.170, RSMo, and other applicable statutes.

4. (1) The provisions of this section shall not apply to the acquisition or disposition by purchase, sale or otherwise of not less than the majority of the stock of any insurance company domiciled outside of the state of Missouri, if the consideration involved in such acquisition or disposition does not exceed the following threshold:

(a) With respect to an insurance holding company, so long as such consideration does not exceed the lesser of three percent of its consolidated assets or twenty percent of its consolidated stockholders' equity as of the thirty-first day of December of the preceding year according to its consolidated balance sheet prepared in accordance with generally accepted accounting principles and audited by independent certified accountants in accordance with generally acceptable auditing standards; or

(b) With respect to an insurance company organized under the laws of this state, so long as such consideration does not exceed the lesser of three percent of its assets or ten percent of its capital and surplus as of the thirty-first day of December of the preceding year according to its balance sheet prepared in accordance with accounting practices prescribed or permitted by the department of insurance and in conformity with the practices of the National Association of Insurance Commissioners and audited by independent certified accountants in accordance with generally acceptable auditing standards.

(2) In calculating the amount of consideration involved in such acquisition or disposition for the purposes of subdivision (1) of this subsection, there shall be included total net moneys or other consideration expended, and obligations assumed in the acquisition or disposition, including all organizational expenses and contributions to capital and surplus of such insurance company domiciled outside of the state of Missouri, whether represented by the purchase of capital stock or issuance of other securities. For the purposes of this subsection, the term "insurance holding company" means a domestic insurance holding company in which the majority of stock is owned by a domestic insurance company, or a domestic insurance holding company which owns the majority of the stock of a domestic insurance company.

379.770. MERGERS OR CONSOLIDATION OF RECIPROCAL EXCHANGES OR INTERINSURERS. — Two or more domestic reciprocal exchanges or interinsurers may merge or consolidate on affirmative vote of not less than two-thirds of the subscribers of each exchange or interinsurer who vote on the merger or consolidation, pursuant to due notice and [by mailing a copy of the notice to each subscriber at least ten days prior to the subscribers' meeting and] prior approval of the director of the department of insurance of this state of the terms **and manner** of the notice and of the manner and form of the voting and of the proposed merger or consolidation.

Approved July 10, 2001

HB 218 [HB 218]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes lifelong learning month; makes changes to law regarding student representatives on higher education boards; establishes spinal cord injury research program at University of Missouri.

AN ACT to repeal sections 172.037, 172.360, 174.610, 174.620, 175.020 and 175.021, RSMo 2000, relating to public schools, and to enact in lieu thereof fifteen new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 9.140. Missouri Lifelong Learning Month observed, when.
- 172.037. Confidentiality — recusal — meeting closed to certain members, when.
- 172.360. Students admissible — tuition and fees.
- 172.790. Definitions.
- 172.792. Specified disease processes or injuries, research funds awarded by board of curators, when, procedure.
- 172.794. Selection of award recipients, requirements.
- 172.796. Advisory board, members, terms.
- 172.798. Rulemaking authority, board of curators.
- 174.056. Confidentiality of board members, recusal — meetings closed to student representative, when.
- 174.610. Governing board to be board of governors — number of voting and nonvoting members, appointment, qualifications.
- 174.620. Board of governors, appointment — terms — expenses — vacancies.
- 174.621. Confidentiality of board members, recusal — meetings closed to student representative, when.
- 175.020. Board of curators — qualifications.
- 175.021. Nonvoting student representative appointed to board of curators — term — qualifications — vacancy — limit — actions — removal from office.
- 175.023. Confidentiality of board members, recusal — meetings closed to student representative, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 172.037, 172.360, 174.610, 174.620, 175.020 and 175.021, RSMo 2000, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 9.140, 172.037, 172.360, 172.790, 172.792, 172.794, 172.796, 172.798, 174.056, 174.610, 174.620, 174.621, 175.020, 175.021 and 175.023, to read as follows:

9.140. MISSOURI LIFELONG LEARNING MONTH OBSERVED, WHEN. — **The governor shall annually issue a proclamation making the month of February "Missouri Lifelong Learning Month", and recommending that it be observed by the people with appropriate**

activities in the public schools and otherwise to promote public awareness of the importance of ongoing education throughout each person's lifetime.

172.037. CONFIDENTIALITY — RECUSAL — MEETING CLOSED TO CERTAIN MEMBERS, WHEN. — 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Upon a unanimous affirmative vote of the members of the board who are present and who are not [a] student [or faculty representative] **representatives**, a given meeting closed pursuant to sections 610.021 and 610.022, RSMo, shall be closed to the student representative[, the faculty representative or both].

172.360. STUDENTS ADMISSIBLE — TUITION AND FEES. — All youths, resident of the state of Missouri, over the age of sixteen years, shall be admitted to all the privileges and advantages of the various classes of all the departments of the University of the State of Missouri [without payment of tuition]; provided, that each applicant for admission therein shall possess such scholastic attainments and mental and moral qualifications as shall be prescribed in rules adopted and established by the board of curators; and provided further, that [nothing herein enacted shall be construed to prevent the board of curators from collecting reasonable tuition fees in the professional departments, and the necessary fees for maintenance of the laboratories in all departments of the university, and establishing such other reasonable fees for library, hospital, incidental expenses or late registration as they may deem necessary] **the board of curators may charge and collect reasonable tuition and other fees necessary for the maintenance and operation of all departments of the university, as they may deem necessary.**

172.790. DEFINITIONS. — As used in sections 172.790 to 172.798, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Advisory board", a board appointed by the board of curators to advise on the administration of the program established by sections 172.790 to 172.798;

(2) "Board of curators", the board of curators of the University of Missouri;

(3) "Investigator", any person with medical, biological, or allied health or life science research credentials who seeks state funding for a research project under sections 172.790 to 172.798;

(4) "Research project", any original investigation for the advancement of scientific knowledge in the area of spinal cord injuries and congenital or acquired disease processes.

172.792. SPECIFIED DISEASE PROCESSES OR INJURIES, RESEARCH FUNDS AWARDED BY BOARD OF CURATORS, WHEN, PROCEDURE. — 1. The board of curators shall award funds to investigators for research projects that promote an advancement of knowledge in the area of specified disease processes or injuries. For this purpose, the board of curators may request an appropriation annually. The board of curators may also request additional funds for administrative overhead not to exceed ten percent of the annual appropriation of research funds.

2. The advisory board shall solicit and select proposals for research projects according to procedures approved by the board of curators. The selection procedures shall provide for peer review of the background and ability of each investigator, the merits of the work proposed and an evaluation of the potential for each research project to achieve productive results. The peer review shall be conducted by the advisory board in accordance with such procedures as are utilized by the National Institutes of Health and the National Science Foundation. Such review shall consist of professional evaluation of the proposal by experts on the topic who are not affiliated in any way with the submitting

investigator. The results of this external evaluation and the related discussion by the advisory board shall not be open to the public. The final awards of the advisory board and all of its other proceedings shall be open to the public.

172.794. SELECTION OF AWARD RECIPIENTS, REQUIREMENTS. — 1. The board of curators, with the recommendations of the advisory board, shall award funds to selected investigators in accordance with the following provisions:

(1) Individual awards shall not exceed fifty thousand dollars per year and shall expire at the end of one or two years, depending on the recommendation of the advisory board for each award;

(2) Costs for overhead of the grantee individual or institution shall not be allowed;

(3) Investigators shall be affiliated with a public or private educational, health care, voluntary health association or research institution which shall specify the institutional official responsible for administration of the award;

(4) Awards shall be used to obtain preliminary data to test hypotheses and to enable investigators to develop subsequent competitive applications for long-term funding from other sources; and

(5) The research project shall be conducted in Missouri.

2. Funds appropriated for but not awarded to research projects in any given year shall be included in the board of curators' appropriations request for research projects in the succeeding year.

172.796. ADVISORY BOARD, MEMBERS, TERMS. — 1. The advisory board shall consist of:

(1) Two physicians who are active both in research and in caring for patients;

(2) Two nonphysicians engaged in research;

(3) One nonphysician professional active in providing service or care to patients;

(4) Two nonresearchers active in an association or organization dealing with disorders, diseases and injuries;

(5) One representative of the board of curators.

2. The advisory board members shall be appointed for terms of three years, except that the terms of the original members shall be staggered among two, three and four years.

3. Members of the advisory board shall be appointed by the board of curators. Successor nominations shall be made by the advisory board itself.

4. Members of the advisory board may be dismissed by an affirmative vote of two-thirds of the members.

5. Members of the advisory board and its peer review committee shall be reimbursed by the board of curators for their actual expenses in providing services pursuant to sections 172.790 to 172.798.

172.798. RULEMAKING AUTHORITY, BOARD OF CURATORS. — The board of curators shall administer all provisions of sections 172.790 to 172.798 and may promulgate rules and regulations necessary to carry out this duty.

174.056. CONFIDENTIALITY OF BOARD MEMBERS, RECUSAL — MEETINGS CLOSED TO STUDENT REPRESENTATIVE, WHEN. — 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Upon a unanimous affirmative vote of the members of the board who are present and who are not student representatives, a given meeting closed pursuant to sections 610.021 and 610.022, RSMo, shall be closed to the student representative.

174.610. GOVERNING BOARD TO BE BOARD OF GOVERNORS — NUMBER OF VOTING AND NONVOTING MEMBERS, APPOINTMENT, QUALIFICATIONS. — [1.] The governing board of the Truman State University shall be a board of governors consisting of ten members, composed of seven voting members and three nonvoting members as provided in section 174.620, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting governor who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years [next] **immediately** prior to [his] **such person's** appointment. Not more than four voting governors shall belong to any one political party. The appointed members of the board of regents serving on January 1, 1986, shall become members of the board of governors on January 1, 1986, and serve until the expiration of the terms for which they were appointed.

[2. The board of regents of the Truman State University is abolished.]

174.620. BOARD OF GOVERNORS, APPOINTMENT — TERMS — EXPENSES — VACANCIES. — 1. The board of governors shall be appointed as follows:

(1) Four voting members [shall be selected] from the counties of Adair, Audrain, Boone, Callaway, Chariton, Clark, Howard, Knox, Lewis, Lincoln, Linn, Marion, Macon, Monroe, Montgomery, Pike, Putnam, Ralls, Randolph, St. Charles, Schuyler, Scotland, Shelby, Sullivan, and Warren, provided that not more than one member shall be appointed from the same county [of these aforementioned counties];

(2) Three voting members [shall be selected] from any of the seven college districts as contained in section 174.010, provided that no more than one member shall be appointed from the same congressional district;

(3) Two nonvoting members whose residence is other than the state of Missouri and who are knowledgeable of the educational mission of liberal arts institutions [shall be selected]; and

(4) One nonvoting member who is a student [shall be selected as provided in section 174.055]. **Such student representative shall attend all meetings and participate in all deliberations of the board. Such student representative shall not have the right to vote on any matter before the board, but shall have all other powers and duties of section 174.055, and shall also meet the qualifications of section 174.055.**

2. The term of service of the governors shall be as follows:

(1) The voting members shall be appointed for terms of six years; except, that of the voting members first appointed, two shall serve for terms of two years, two for terms of four years, and three for terms of six years;

(2) The nonvoting members who are not students shall be appointed for terms of six years; except, that of the nonvoting members first appointed, one shall serve for a term of three years, and one shall serve a term of six years; and

(3) The nonvoting student member shall serve a two-year term as provided in section 174.055.

3. The governors, **both voting and nonvoting**, while attending the meetings of the board shall receive their actual and necessary expenses, which shall be paid out of the ordinary revenues of the university. Vacancies in terms of office caused by death, resignation or removal shall be filled in the manner provided by law for such vacancies on the board of curators of the [State] University of Missouri.

174.621. CONFIDENTIALITY OF BOARD MEMBERS, RECUSAL — MEETINGS CLOSED TO STUDENT REPRESENTATIVE, WHEN. — **1. For the purposes of sections 174.500 to 174.630,**

confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Upon a unanimous affirmative vote of the members of the board who are present and who are not student representatives, a given meeting closed pursuant to sections 610.021 and 610.022, RSMo, shall be closed to the student representative.

175.020. BOARD OF CURATORS — QUALIFICATIONS. — The board of curators of Lincoln University of Missouri shall hereafter consist of nine members who shall be appointed by the governor, by and with the advice and consent of the senate. No person shall be appointed a curator who shall not be a citizen of the United States and who shall not have been a resident of the state of Missouri two years next prior to his **or her** appointment. Not more than five curators shall belong to any one political party.

175.021. NONVOTING STUDENT REPRESENTATIVE APPOINTED TO BOARD OF CURATORS — TERM — QUALIFICATIONS — VACANCY — LIMIT — ACTIONS — REMOVAL FROM OFFICE. — 1. The governor shall, by and with the advice and consent of the senate, appoint a student representative to the board of curators of Lincoln University, who shall attend all meetings and participate in all deliberations of the board[, except any meeting, record or vote closed under the provisions of section 610.025, RSMo]. Such student representative shall not have the right to vote on any matter before the board.

2. Such student representative shall be a full-time student at the university as defined by the board, selected from a panel of three names submitted to the governor by the student government association of the university, a citizen of the United States, and a resident of the state of Missouri. No person may be appointed who is not actually enrolled during the term of his **or her** appointment as a student at the university.

3. The term of the student representative shall be two years, except that the person first appointed shall serve until January 1, 1989.

4. If a vacancy occurs for any reason in the position of student representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until his **or her** successor is appointed and qualified.

5. If the student representative ceases to be a student at the university, or a resident of the state of Missouri, or fails to attend any regularly called meeting of the board of which [he] **the representative** has due notice, [his] **the** position shall at once become vacant, unless [his] **the** absence is caused by sickness or some accident preventing [his] **the representative's** arrival at the time and place appointed for the meeting.

6. The student representative shall receive [no compensation or reimbursement for expenses] **the same reimbursement for expenses as other members of the board of curators receive pursuant to section 175.030.**

7. [The student representatives of all public colleges and universities] **Unless alternative arrangements for payment have been made and agreed to by the student and the university, the student representative** shall have paid all student and tuition fees due prior to [said appointments] **such appointment** and shall pay all future student and tuition fees during the term of office when [said] **such** fees are due.

175.023. CONFIDENTIALITY OF BOARD MEMBERS, RECUSAL — MEETINGS CLOSED TO STUDENT REPRESENTATIVE, WHEN. — 1. **For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.**

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Upon a unanimous affirmative vote of the members of the board who are present and who are not student representatives, a given meeting closed pursuant to sections 610.021 and 610.022, RSMo, shall be closed to the student representative.

Approved June 27, 2001

HB 219 [SCS HB 219]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions of the fencing law.

AN ACT to repeal sections 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.150, 272.160, 272.170, 272.180, 272.190 and 272.200, RSMo 2000, relating to property rights, and to enact in lieu thereof twelve new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 272.010. Field to be enclosed by fence.
- 272.020. Fencing requirements.
- 272.040. Judge may appoint viewers to view fence — compensation of appointees.
- 272.050. Persons injuring animals liable for damages, when.
- 272.060. Division fences — rights of parties in, how determined.
- 272.070. Duty of judge if owners disagree — apportionment of costs.
- 272.100. Duties of persons appointed — their fees.
- 272.110. Division fences to be kept in repair.
- 272.130. Judgment of associate circuit judge reviewed in same manner as other civil actions.
- 272.132. Total cost of fence attributable to one landowner, when.
- 272.134. Agreement for no fence permitted.
- 272.136. Landowner may exceed lawful fence requirements.
- 272.150. Saltpeter works to be fenced.
- 272.160. Damages for failure to fence.
- 272.170. Cotton gins to be enclosed.
- 272.180. Cotton seed not to be scattered outside of enclosure.
- 272.190. Penalty for violation.
- 272.200. Lands upon which poisonous crops are planted shall be enclosed — penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.150, 272.160, 272.170, 272.180, 272.190 and 272.200, RSMo 2000, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.132, 272.134 and 272.136, to read as follows:

272.010. FIELD TO BE ENCLOSED BY FENCE. — All fields and enclosures **where animals are kept** shall be enclosed by [hedge, or with a fence sufficiently close, composed of posts and rails, posts and palings, posts and planks, posts and wires, palisades or rails alone, laid up in a manner commonly called a worm fence, or of turf, with ditches on each side, or of stone or brick] **a lawful fence as defined in section 272.020.**

272.020. FENCING REQUIREMENTS. — [All hedges shall be at least four feet high, and all fences composed of posts and rails, posts and palings, posts and wire, posts and boards or palisades, shall be at least four and one-half feet high, with posts set firmly in the ground, not more than eight feet apart, and with rails, palings, wire, boards or palisades securely fastened thereto, and placed at proper distances apart, so as to resist horses, cattle, swine and like stock; and fences composed of woven wire, wire netting or wire mesh shall be at least four and one-half feet high, securely fastened to posts, such posts to be set firmly in the ground, and not more than sixteen feet apart, and such woven wire, wire netting or wire mesh to be of sufficient closeness and strength as to resist horses, cattle, swine and like stock; those composed of turf shall be at least four feet high and with ditches on either side at least three feet wide at the top and three feet deep; and what is known as a worm fence shall be at least five feet high to the top of the rider, or if not ridged, shall be five feet to the top rail or pole, and shall be locked with strong rails or poles or stakes; those composed of stone or brick shall be at least four and one-half feet high; provided, that in counties in this state in which swine are restrained from running at large, all fences built of posts set firmly in the ground, not more than sixteen feet apart, and three barbed wires tensely stretched and securely fastened thereto, and the upper wire being substantially four feet from the ground, and the two remaining wires placed at proper distances below to resist horses, cattle and like stock, and all fences built of posts and rails, or posts and slats, with posts set firmly in the ground, not more than ten feet apart, and with three rails or slats securely fastened thereto, and the upper rail or slat being placed substantially four and one-half feet from the ground, and the two remaining rails or slats to each panel being placed at proper distances below to resist horses, cattle and like stock, and all fences built of posts and boards, with posts set firmly in the ground, not more than eight feet apart, and board substantially one inch thick and six inches wide, securely fastened thereto, and the upper board being at least four and one-half feet high, and the remaining boards placed at proper distances below, to resist horses, cattle and like stock, shall be deemed and held to be a good and lawful fence; provided, that nothing contained in this section shall be so construed as to relieve any railroad company from the obligation of fencing the right-of-way of said company against hogs, sheep, cattle, horses and like stock.] **1. Any fence consisting of posts and wire or boards at least four feet high which is mutually agreed upon by adjoining landowners or decided upon by the associate circuit court of the county is a lawful fence.**

2. All posts shall be set firmly in the ground not more than twelve feet apart with wire or boards securely fastened to such posts and placed at proper distances apart to resist horses, cattle and other similar livestock.

272.040. JUDGE MAY APPOINT VIEWERS TO VIEW FENCE — COMPENSATION OF APPOINTEES. — Upon complaint of [the party injured to any circuit or associate circuit judge of the county, such circuit or] **either party claiming to be injured because of the trespass or taking up of livestock as described in section 272.030, the** associate circuit judge shall, without delay, issue an order to three disinterested householders of the neighborhood, not of kin to either party, reciting the complaint, and requiring them to view the [hedge or] fence where the trespass is complained of, and take memoranda of the same, and appear before the [judge] **court** on the day set for trial; and their evidence shall determine the lawfulness of such fence. **The persons appointed by the associate circuit judge shall be paid twenty-five dollars each per day for the time actually employed which shall be taxed as costs in the case equally against the parties and collected accordingly.**

272.050. PERSONS INJURING ANIMALS LIABLE FOR DAMAGES, WHEN. — If any person [damned for want of such] **who does not maintain a** sufficient [hedge or] fence, shall hurt, wound, lame, kill or destroy, or cause the same to be done by shooting, worrying with dogs, or otherwise, any of the animals in this chapter mentioned, such [persons] **person** shall satisfy the owner in double damages with costs.

272.060. DIVISION FENCES — RIGHTS OF PARTIES IN, HOW DETERMINED. — [Whenever the fence of any owner of real estate, now erected or constructed, or which shall hereafter be erected or constructed, the same being a lawful fence, as defined by sections 272.010 and 272.020, serves to enclose the land of another, or which shall become a part of the fence enclosing the lands of another, on demand made by the person owning such fence, such other person shall pay the owner one-half the value of so much thereof as serves to enclose his land, and upon such payment shall own an undivided half of such fence.] **1. Whenever the owner of real estate desires to construct or repair a lawful fence, as defined by section 272.020, which divides his or her land from that of another, such owner shall give written notice of such intention to the adjoining landowner. The landowners shall meet and each shall construct or repair that portion of the division fence which is on the right of each owner as the owners face the fence line while standing at the center of their common property line on their own property. If the owners cannot agree as to the part each shall construct or keep in repair, either of them may apply to an associate circuit judge of the county who shall forthwith summon three disinterested householders of the township or county to appear on the premises, giving three days' notice to each of the parties of the time and place where such viewers shall meet, and such viewers shall, under oath, designate the portion to be constructed or kept in repair by each of the parties interested and notify them in writing of the same. Such viewers shall receive twenty-five dollars each per day for the time actually employed, which shall be taxed as court costs.**

2. Existing agreements not consistent with the procedure prescribed by subsection 1 of this section shall be in writing, signed by the agreeing parties, and shall be recorded in the office of the recorder of deeds in the county or counties where the fence line is located. The agreement shall describe the land and the portion of partition fences between their lands which shall be erected and maintained by each party. The agreement shall bind the makers, their heirs and assigns.

272.070. DUTY OF JUDGE IF OWNERS DISAGREE — APPORTIONMENT OF COSTS. — [If the parties interested shall fail to agree as to the value of one-half of such fence, the owner of the fence may apply to a circuit or associate circuit judge of the county, who shall without delay, issue an order to three disinterested householders of the township, not of kin to either party, reciting the complaint, and requiring them to view the fence, estimate the value thereof, and make return under oath to the associate circuit judge on the day named in the order.] **If either party fails to construct or repair his or her portion of the fence in accordance with the provisions of section 272.060 within a reasonable time, the other may petition the associate circuit court of the county to authorize the petitioner to build or repair the fence in a manner to be directed by the court. If the court authorizes such action, the petitioner shall be given a judgment for that portion of the total cost of the fence which is chargeable as the other party's portion of the fence, court costs and reasonable attorney's fees. Any such judgment shall be a lien on the real estate of the party against whom the judgment may be given.**

272.100. DUTIES OF PERSONS APPOINTED — THEIR FEES. — The persons appointed by the associate circuit judge [under sections 272.070 and 272.090] **pursuant to section 272.040** to discharge the duties therein specified, shall receive [one dollar] **twenty-five dollars** each per day for the time actually employed, which[, together with the fees of the associate circuit judge and sheriff,] shall be taxed as costs in the case against the parties [in proportion to their respective interests,] and collected accordingly.

272.110. DIVISION FENCES TO BE KEPT IN REPAIR. — Every person owning a part of a division fence shall keep **his or her portion of** the same in good repair according to the requirements of this chapter, and [when said division fence is a hedge, shall properly trim the

same at least once a year, to a height not greater than four and one-half feet, and to a breadth not greater than three feet, and for the purpose of trimming said hedge as aforesaid, he shall have the right to] **may** enter upon any land lying adjacent thereto **for such purpose**. [Either party owning land adjoining a division fence or hedge may, upon the failure of any of the other parties, have all that part of such division fence belonging to such other parties repaired, upon the failure of such other party to do so, such repairing or trimming to be at the cost of the party so failing to repair or trim his part of such fence; and the party so repairing or trimming such hedge shall always throw the brush trimmed off on his own side of such hedge; and upon neglect or refusal to keep said fence in repair, or to keep said hedge trimmed as provided in this section, such owner shall be liable in double damages to the party injured thereby, and such injured party may enforce the collection of such damages by restraining any cattle or other stock that may break in or come upon his enclosure by reason of the failure of such other party to keep his portion of such division fence in repair and proceeding therewith under the provisions of sections 270.010 to 270.200, RSMo.]

272.130. JUDGMENT OF ASSOCIATE CIRCUIT JUDGE REVIEWED IN SAME MANNER AS OTHER CIVIL ACTIONS. — Any person aggrieved by any order or judgment of the associate circuit judge made or entered [under] **pursuant to** the provisions of [sections 272.040, 272.070 and 272.090] **section 272.040 or 272.070** may have the same reviewed in the same manner as other civil actions.

272.132. TOTAL COST OF FENCE ATTRIBUTABLE TO ONE LANDOWNER, WHEN. — **If either of two adjoining landowners does not need a fence, the landowner that needs a fence may build the entire fence and report the total cost to the associate circuit judge who shall authorize the cost to be recorded on each deed. Should the landowner that claimed no need for a fence subsequently place livestock against the fence, the landowner that built the fence shall be reimbursed for one-half the construction costs share to be determined as provided in section 272.060.**

272.134. AGREEMENT FOR NO FENCE PERMITTED. — **Nothing in this chapter shall prevent adjoining landowners from agreeing that no fence is needed between their property.**

272.136. LANDOWNER MAY EXCEED LAWFUL FENCE REQUIREMENTS. — **Nothing in this chapter shall prevent either of adjoining landowners from building the landowner or the landowner's neighbor's portion of a fence in excess of the lawful fence requirements prescribed by this chapter.**

[272.150. SALTPETER WORKS TO BE FENCED. — The owners and occupiers of saltpeter works within this state shall keep the same enclosed with a good and lawful fence, so as to prevent horses, cattle and other stock that may receive injury thereby from having access thereto.]

[272.160. DAMAGES FOR FAILURE TO FENCE. — Every person, owner or occupier of any saltpeter works within this state, failing to secure the same, with a good and lawful fence, from horses, cattle and any kind of stock that may be injured by drinking the saltpeter water, shall be liable to an action by the party injured by such neglect for double the value of such horses, cattle or other stock injured or killed by drinking such water, to be recovered in any court having competent jurisdiction to try the same.]

[272.170. COTTON GINS TO BE ENCLOSED. — Hereafter all persons owning or running cotton gins in the state of Missouri shall keep them enclosed with a sufficient fence to keep out hogs.]

[272.180. COTTON SEED NOT TO BE SCATTERED OUTSIDE OF ENCLOSURE. — They shall not allow the cotton seed from their gin to be scattered or thrown outside of the enclosure.]

[272.190. PENALTY FOR VIOLATION. — Any person violating the provisions of sections 272.170 and 272.180 shall be liable for all damage accruing therefrom.]

[272.200. LANDS UPON WHICH POISONOUS CROPS ARE PLANTED SHALL BE ENCLOSED — PENALTY. — All lands, within this state, upon which sorghum or other poisonous crops are planted shall be enclosed by the owners and occupiers with a good and lawful fence so as to prevent horses, cattle or other stock that may receive injury thereby from having access thereto; provided, that a lawful fence as used in this section shall be construed to mean such fences as are described elsewhere in this chapter and that the same penalties for damages as provided in section 272.160 shall be recoverable under this section; provided further, that this law shall not apply to counties and townships that have or may hereafter adopt a stock law.]

Approved July 12, 2001

HB 236 [SCS HB 236]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Juvenile Information Governance Commission.

AN ACT to amend chapter 210, RSMo, by adding thereto one new section relating to the state juvenile information system.

SECTION

A. Enacting clause.

210.870. Juvenile information governance commission created, members, duties, meetings, annual report.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 210, RSMo, is amended by adding thereto one new section, to be known as section 210.870, to read as follows:

210.870. JUVENILE INFORMATION GOVERNANCE COMMISSION CREATED, MEMBERS, DUTIES, MEETINGS, ANNUAL REPORT. — 1. There is hereby established the "Juvenile Information Governance Commission".

2. The commission shall be composed of the following members:

- (1) The director of the department of mental health;**
 - (2) The director of the department of health;**
 - (3) The commissioner of education;**
 - (4) The director of the department of social services;**
 - (5) The director of the division of family services of the department of social services;**
 - (6) The director of the division of youth services of the department of social services;**
 - (7) The state courts administrator;**
 - (8) The superintendent of the highway patrol;**
 - (9) The chief information officer of the office of information technology of the office of administration;**
-

(10) One judge who hears juvenile cases in a circuit comprised of one county of the first classification, appointed by the chief justice of the supreme court;

(11) One judge who hears juvenile cases in a circuit comprised of more than one county, appointed by the chief justice of the supreme court;

(12) One juvenile officer representing a circuit comprised of one county of the first classification, appointed by the chief justice of the supreme court;

(13) One juvenile officer representing a circuit comprised of more than one county, appointed by the chief justice of the supreme court.

3. The commission shall authorize categories of information to be shared between executive agencies and juvenile and family divisions of the circuit courts pursuant to section 210.865. The commission shall provide vision, strategy, policy approval and oversight for development and implementation of agency, law enforcement and juvenile and family court information sharing. The commission may appoint subcommittees to address technical and policy issues associated with information sharing, communication, development and implementation.

4. The state courts administrator or a designee shall chair the commission.

5. The commission shall meet as determined by the chair but not less than semiannually. A majority of the members of the commission shall constitute a quorum.

6. No member of the commission shall receive compensation for the performance of duties associated with membership on the commission.

7. Official minutes of all commission meetings shall be prepared by the chair, distributed to the members and filed by the state courts administrator.

8. The commission shall, on January 1, 2002, and annually thereafter on January first of each succeeding year, transmit a report summarizing the commission's findings to the general assembly.

Approved June 13, 2001

HB 241 [CCS SCS HCS HB 241]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the principal and income act applicable to trusts and estates.

AN ACT to repeal sections 456.012, 456.013, 456.700, 456.710, 456.720, 456.730, 456.740, 456.750, 456.760, 456.770, 456.780, 456.790, 456.800, 456.810 and 456.820, RSMo 2000, relating to trusts and estates, and to enact in lieu thereof thirty-six new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 145.1000. Repeal of federal estate tax, effect on state tax — effective date.
- 456.236. Inapplicability of the rule against perpetuities — rule prohibiting unreasonable restraints or suspension of power of alienation not violated, when — rule against accumulations not applicable, when.
- 469.401. Definitions.
- 469.403. Disbursements to or between principal and income, fiduciary's responsibilities.
- 469.405. Adjustments between principal and income permitted by trustee, factors to be considered — no adjustment permitted, when.
- 469.409. Bar on claim of breach of fiduciary duties, when — applicable rules.
- 469.411. Determination of unitrust amount — definitions — exclusions to net fair market value of assets — applicability of section to certain trusts.

- 469.413. Death of decedent or end of income interest, applicable rules.
- 469.415. Rights of beneficiaries to net income.
- 469.417. Beneficiary entitled to net income, when — asset subject to trust, when — income interest.
- 469.419. Trustee to allocate income receipt or disbursement, when.
- 469.421. Mandatory income interest, undistributed income, paid when.
- 469.423. Allocations by trustee — entity defined.
- 469.425. Allocations to income or principal.
- 469.427. Separate accounting records maintained, when, procedure.
- 469.429. Allocations to principal.
- 469.431. Rental property, allocation to income.
- 469.432. Interest allocated to income — amounts received from sale, redemption or disposition of an obligation to pay money to principal.
- 469.433. Life insurance proceeds allocated to principal — dividends allocated to income.
- 469.435. Insubstantial amounts may be allocated to principal, exceptions — presumption of insubstantial amount, when.
- 469.437. Distributions allocated as income, when — definitions — balance allocated to principal, when — effect of separate accounts or funds.
- 469.439. Ten percent of receipts from liquidating asset allocated to income, remainder to principal.
- 469.441. Allocation of interest in minerals or other natural resources — interest in water, allocation of.
- 469.443. Sale of timber and related products, allocation of net receipts.
- 469.445. Marital deduction, insufficient income, allowable actions.
- 469.447. Transactions in derivatives allocated to principal — options to sell or buy property allocated to principal.
- 469.449. Allocation of collateral financial assets and asset-backed securities.
- 469.451. Required disbursements from income.
- 469.453. Required disbursements from principal.
- 469.455. Depreciation not to be transferred.
- 469.457. Principal disbursement, permitted transfers.
- 469.459. Taxes to be paid from income or principal, when.
- 469.461. Adjustments between principal and income, when — estate tax marital deduction or charitable contributions, how handled.
- 469.463. Uniformity considered in application and construction.
- 469.465. Severability clause.
- 469.467. Applicability of sections.
- 456.012. Receipts from funds held in trust, how allocated.
- 456.013. Principal and income distinguished — what receipts affected.
- 456.700. Definitions.
- 456.710. Receipts and expenditures, duty of trustee.
- 456.720. Income — principal — charges — definitions, and what each includes.
- 456.730. When right to income arises — apportionment of income — distribution by power of appointment, when.
- 456.740. Income earned during administration of a decedent's estate.
- 456.750. Corporate distribution.
- 456.760. Bonds, premium and discount.
- 456.770. Business or farming operation, calculation and treatment of profits, losses.
- 456.780. Disposition of natural resources.
- 456.790. Timber.
- 456.800. Other property subject to depletion.
- 456.810. Charges against income and principal.
- 456.820. Application of principal and income sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 456.012, 456.013, 456.700, 456.710, 456.720, 456.730, 456.740, 456.750, 456.760, 456.770, 456.780, 456.790, 456.800, 456.810 and 456.820, RSMo 2000, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 145.1000, 456.236, 469.401, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465 and 469.467, to read as follows:

145.1000. REPEAL OF FEDERAL ESTATE TAX, EFFECT ON STATE TAX — EFFECTIVE DATE. — **Other provisions of this chapter to the contrary notwithstanding, if the federal estate tax imposed pursuant to section 2011 of the Internal Revenue Code, as amended,**

is repealed, then no tax shall be imposed on the transfer of a decedent's estate in Missouri. The provisions of this section shall become effective on the same date as the effective date of the repeal of the federal estate tax.

456.236. INAPPLICABILITY OF THE RULE AGAINST PERPETUITIES — RULE PROHIBITING UNREASONABLE RESTRAINTS OR SUSPENSION OF POWER OF ALIENATION NOT VIOLATED, WHEN — RULE AGAINST ACCUMULATIONS NOT APPLICABLE, WHEN. — 1. The rule against perpetuities shall not apply to and any rule prohibiting unreasonable restraints on or suspension of the power of alienation shall not be violated by a trust if a trustee, or other person or persons to whom the power is properly granted or delegated, has the power pursuant to the terms of the trust or applicable law to sell the trust property during the period of time the trust continues beyond the period of the rule against perpetuities that would apply to the trust but for this subsection.

2. No rule against accumulations shall apply to a trust described in subsection 1 of this section unless the terms of the trust require that the income be accumulated during a period of time the trust continues beyond the period of the rule against perpetuities that would apply to the trust but for subsection 1 of this section. If the terms of the trust require that the income be accumulated during any period of time the trust continues beyond the period of the rule against perpetuities that would apply to the trust but for subsection 1 of this section, then during that period of time the trustee shall have the power to make discretionary distributions of net income to such recipients and in such shares and in such manner as most closely effectuates the settlor's or testator's manifested plan of distribution.

3. The provisions of this section apply to:

(1) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of a power of appointment other than a general power of appointment granted under a will or inter vivos agreement, executed or amended on or after August 28, 2001;

(2) Any trust created pursuant to the exercise of a general power of appointment exercised in an instrument executed or amended on or after August 28, 2001; or

(3) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of a power of appointment granted under a will or inter vivos agreement, executed or amended before August 28, 2001, if the laws of this state become applicable to the trust after such date, the laws of any other state applied to the trust before such date, and the rule against perpetuities did not apply to the trust pursuant to the laws of the other state.

4. As used in this section, the term "trust" shall have the same meaning as in subdivision (2) of section 456.500, except that the term shall not include a trust that is not subject to the rule against perpetuities by reason of any other law of this state.

469.401. DEFINITIONS. — As used in sections 469.401 to 469.467, the following terms mean:

(1) "Accounting period", a calendar year unless another twelve-month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve-month period that begins when an income interest begins or ends when an income interest ends;

(2) "Beneficiary", an heir, legatee and devisee of a decedent's estate, and an income beneficiary and a remainder beneficiary of a trust, including any type of entity that has a beneficial interest in either an estate or a trust;

(3) "Fiduciary", a personal representative, trustee, executor, administrator, successor personal representative, special administrator and any other person performing substantially the same function;

(4) "Income", money or property that a fiduciary receives as current return from a principal asset, including a portion of receipts from a sale, exchange or liquidation of a principal asset, as provided in sections 469.423 to 469.449;

(5) "Income beneficiary", a person to whom net income of a trust is or may be payable;

(6) "Income interest", the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion;

(7) "Mandatory income interest", the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;

(8) "Net income", if section 469.411 applies to the trust, the unitrust amount, or if section 469.411 does not apply to the trust, the total receipts allocated to income during an accounting period minus the disbursements made from income during the same period, plus or minus transfers pursuant to sections 469.401 to 469.467 to or from income during the same period;

(9) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation or any other legal or commercial entity;

(10) "Principal", property held in trust for distribution to a remainder beneficiary when the trust terminates;

(11) "Qualified beneficiary", a beneficiary who, on the date qualification is determined, either is entitled or eligible to receive a distribution of trust income or principal, or would be entitled to receive a distribution if the event causing the trust to terminate occurred on that date;

(12) "Remainder beneficiary", a person entitled to receive principal when an income interest ends;

(13) "Terms of a trust", the manifestation of the settlor's or decedent's intent expressed in a manner which is admissible as proof in a judicial proceeding, whether by written or spoken words or by conduct;

(14) "Trustee", an original, additional or successor trustee, whether or not appointed or confirmed by a court;

(15) "Unitrust amount", net income as defined by section 469.411.

469.403. DISBURSEMENTS TO OR BETWEEN PRINCIPAL AND INCOME, FIDUCIARY'S RESPONSIBILITIES. — 1. In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of sections 469.413 to 469.421, a fiduciary:

(1) Shall administer a trust or estate under the terms of the trust or the will, even if there is a different provision in sections 469.401 to 469.467;

(2) May administer a trust or estate by exercising a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by sections 469.401 to 469.467;

(3) Shall administer a trust or estate pursuant to sections 469.401 to 469.467 if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

(4) Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and sections 469.401 to 469.467 do not provide a rule for allocating the receipt or disbursement to or between principal and income.

2. In exercising the power to adjust pursuant to section 469.405 or a discretionary power of administration regarding a matter within the scope of sections 469.401 to

469.467, whether granted by the terms of a trust, a will, or sections 469.401 to 469.467, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intent that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with sections 469.401 to 469.467 is presumed to be fair and reasonable to all of the beneficiaries.

469.405. ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME PERMITTED BY TRUSTEE, FACTORS TO BE CONSIDERED — NO ADJUSTMENT PERMITTED, WHEN. — 1. A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or shall be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying subsection 1 of section 469.403, that the trustee is unable to comply with subsection 2 of section 469.403.

2. In deciding whether and to what extent to exercise the power conferred by subsection 1 of this section, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent relevant:

- (1) The nature, purpose and expected duration of the trust;
- (2) The intent of the settlor;
- (3) The identity and circumstances of the beneficiaries;
- (4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;
- (5) The assets held in the trust, including the extent to which such assets consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property, and the extent to which such assets are used by a beneficiary, and whether such assets were purchased by the trustee or received from the settlor;
- (6) The net amount allocated to income pursuant to sections 469.401 to 469.467, other than this section, and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;
- (7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income, or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;
- (8) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and
- (9) The anticipated tax consequences of an adjustment.

3. A trustee may not make an adjustment:

- (1) That diminishes the income interest in a trust which requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;
- (2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;
- (3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;
- (4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust to the extent that the existence of the power to adjust would change the character of the amount set aside for federal income, gift or estate tax purposes;
- (5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the

individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;

(6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

(7) If the trustee is a beneficiary of the trust; or

(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee directly or indirectly.

4. If subdivision (5), (6), (7) or (8) of subsection 3 of this section applies to a trustee and there is more than one trustee, a co-trustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

5. A trustee may release the entire power conferred by subsection 1 of this section, or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subdivisions (1) to (6) or subdivision (8) of subsection 3 of this section, or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection 3 of this section. The release may be permanent or for a specified period, including a period measured by the life of an individual.

6. Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection 1 of this section.

469.409. BAR ON CLAIM OF BREACH OF FIDUCIARY DUTIES, WHEN — APPLICABLE RULES. — 1. Any claim for breach of a trustee's duty to impartially administer a trust related, directly or indirectly, to an adjustment made by a fiduciary to the allocation between principal and income pursuant to subsection 1 of section 469.405 or any allocation made by the fiduciary pursuant to any authority or discretion specified in subsection 1 of section 469.403, unless previously barred by adjudication, consent or other limitation, shall be barred as provided in this section. Any such claim is barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust, no matter how remote or contingent, or whether or not the beneficiary is ascertainable or has the capacity to contract, within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim.

2. For purposes of this section the following rules shall apply:

(1) A report adequately discloses the facts constituting a claim if it provides sufficient information so that the beneficiary should know of the claim or reasonably should have inquired into its existence;

(2) A qualified beneficiary is deemed to have been sent a report if:

(a) In the case of a qualified beneficiary who has the capacity to contract, the report is either delivered personally to the beneficiary or sent to the beneficiary at the beneficiary's last known address;

(b) In the case of a qualified beneficiary who lacks the capacity to contract, the report is either hand delivered to a person with respect to whom pursuant to subdivision (2) of section 472.300, RSMo, an order would bind that beneficiary with respect to the subject of the claim or sent to the person at that person's last known address, provided that there

is no conflict of interest between that person and the qualified beneficiary that person is representing;

(3) The determination of the identity of all qualified beneficiaries shall be made on the date the report is deemed to have been sent; and

(4) This section does not preclude an action to recover for fraud or misrepresentation related to the report.

469.411. DETERMINATION OF UNITRUST AMOUNT — DEFINITIONS — EXCLUSIONS TO NET FAIR MARKET VALUE OF ASSETS — APPLICABILITY OF SECTION TO CERTAIN TRUSTS. — 1. If the provisions of this section apply to a trust, the unitrust amount shall be determined as follows:

(1) For the first three accounting periods of the trust, the unitrust amount for a current valuation year of the trust shall be three percent, or any higher percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the net fair market values of the assets held in the trust on the first business day of the current valuation year;

(2) Beginning with the fourth accounting period of the trust, the unitrust amount for a current valuation year of the trust shall be three percent, or any higher percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the average of the net fair market values of the assets held in the trust on the first business day of the current valuation year and the net fair market values of the assets held in the trust on the first business day of each prior valuation year;

(3) The unitrust amount for the current valuation year computed pursuant to subdivision (1) or (2) of this subsection shall be proportionately reduced for any distributions, in whole or in part, other than distributions of the unitrust amount, and for any payments of expenses, including debts, disbursements and taxes, from the trust within a current valuation year that the trustee determines to be material and substantial, and shall be proportionately increased for the receipt, other than a receipt that represents a return on investment, of any additional property into the trust within a current valuation year;

(4) For purposes of subdivision (2) of this subsection, the net fair market values of the assets held in the trust on the first business day of a prior valuation year shall be adjusted to reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt, for the prior valuation year pursuant to subdivision (3) of this subsection, as if the distribution, payment or receipt had occurred on the first day of the prior valuation year;

(5) In the case of a short accounting period, the trustee shall prorate the unitrust amount on a daily basis;

(6) In the case where the net fair market value of an asset held in the trust has been incorrectly determined either in a current valuation year or in a prior valuation year, the unitrust amount shall be increased in the case of an undervaluation, or be decreased in the case of an overvaluation, by an amount equal to the difference between the unitrust amount determined based on the correct valuation of the asset and the unitrust amount originally determined.

2. As used in this section, the following terms mean:

(1) "Current valuation year", the accounting period of the trust for which the unitrust amount is being determined;

(2) "Prior valuation year", each of the two accounting periods of the trust immediately preceding the current valuation year.

3. In determining the sum of the net fair market values of the assets held in the trust for purposes of subdivisions (1) and (2) of subsection 1 of this section, there shall not be included the value of:

(1) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more income beneficiaries of the trust have or had the right to occupy, or have or had the right to possess or control, other than in a capacity as trustee, and instead the right of occupancy or the right to possession or control shall be deemed to be the unitrust amount with respect to the residential property or the tangible personal property; or

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on investment on that asset, which return on investment shall be distributable to the beneficiary.

4. In determining the net fair market value of each asset held in the trust pursuant to subdivisions (1) and (2) of subsection 1 of this section, the trustee shall, not less often than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market by appraisal or other reasonable method or estimate, and that determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on or before August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply two years from August 28, 2001, unless the instrument creating the trust provides otherwise. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. Delivery of the notice to a person with respect to whom, pursuant to subdivision (2) of section 472.300, RSMo, an order would bind a beneficiary of the trust is delivery of notice to that beneficiary for all purposes of this subsection. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is three percent or greater, or if no percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section 469.409;

(3) No action of any kind based on an election made or not made by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from August 28, 2001.

469.413. DEATH OF DECEDENT OR END OF INCOME INTEREST, APPLICABLE RULES. —

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary pursuant to the rules in sections 469.417 to 469.461 which apply to trustees and the rules in subdivision (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property;

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest pursuant to the rules in sections 469.417 to 469.461 which apply to trustees and by:

(a) Including in net income all income from property used to discharge liabilities;

(b) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(c) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law;

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or in the absence of any such provisions, the provisions of section 473.633, RSMo, from net income determined pursuant to subdivision (2) of this section or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will;

(4) A fiduciary shall distribute the net income remaining after distributions required by subdivision (3) of this section in the manner described in section 469.415 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust;

(5) A fiduciary may not reduce principal or income receipts from property described in subdivision (1) of this section because of a payment described in sections 469.451 and 469.453 to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

469.415. RIGHTS OF BENEFICIARIES TO NET INCOME. — 1. Each beneficiary described in subdivision (4) of section 469.413 is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income

the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

2. In determining a beneficiary's share of net income, the following rules apply:

(1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations;

(2) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust;

(3) The beneficiary's fractional interest in the undistributed principal assets shall be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation;

(4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

3. If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

4. A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

469.417. BENEFICIARY ENTITLED TO NET INCOME, WHEN — ASSET SUBJECT TO TRUST, WHEN — INCOME INTEREST. — 1. An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

2. An asset becomes subject to a trust:

(1) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

(2) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

(3) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

3. An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined pursuant to subsection 4 of this section, even if there is an intervening period of administration to wind up the preceding income interest.

4. An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

469.419. TRUSTEE TO ALLOCATE INCOME RECEIPT OR DISBURSEMENT, WHEN. — 1. A trustee shall allocate an income receipt or disbursement other than one to which section 469.413 applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

2. A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement shall be treated as accruing

from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins shall be allocated to principal and the balance shall be allocated to income.

3. An item of income or an obligation is due on the date a payment is required. If a payment date is not stated, there is no due date for the purposes of sections 469.401 to 469.467. Distributions to shareholders or other owners from an entity to which section 469.423 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that shall be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

469.421. MANDATORY INCOME INTEREST, UNDISTRIBUTED INCOME, PAID WHEN. — 1. For purposes of this section, the phrase "undistributed income" means net income received before the date on which an income interest ends. The phrase does not include an item of income or expense that is due or accrued, or net income that has been added or is required to be added to principal under the terms of the trust.

2. When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked shall be added to principal.

3. When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate or other tax requirements.

469.423. ALLOCATIONS BY TRUSTEE — ENTITY DEFINED. — 1. For purposes of this section, the term "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest, other than a trust or estate to which section 469.425 applies, a business or activity to which section 469.427 applies, or an asset-backed security to which section 469.447 applies.

2. Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

3. A trustee shall allocate the following receipts from an entity to principal:

- (1) Property other than money;
- (2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;
- (3) Money received in total or partial liquidation of the entity; and
- (4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

4. Money is received in partial liquidation:

- (1) To the extent that the entity, at or near the time of a distribution, indicates that such money is a distribution in partial liquidation; or
- (2) If the total amount of money and property received in a distribution or series of related distributions is greater than twenty percent of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

5. Money is not received in partial liquidation, nor may it be taken into account pursuant to subdivision (2) of subsection 4 of this section, to the extent that such money does not exceed the amount of income tax that a trustee or beneficiary shall pay on taxable income of the entity that distributes the money.

6. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

469.425. ALLOCATIONS TO INCOME OR PRINCIPAL. — A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, section 469.423 or 469.449 shall apply to a receipt from the trust.

469.427. SEPARATE ACCOUNTING RECORDS MAINTAINED, WHEN, PROCEDURE. — 1. If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

2. A trustee who accounts separately for a business or other activity may determine the extent to which net cash receipts shall be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

3. Activities for which a trustee may maintain separate accounting records include:

- (1) Retail, manufacturing, service and other traditional business activities;
- (2) Farming;
- (3) Raising and selling livestock and other animals;
- (4) Management of rental properties;
- (5) Extraction of minerals and other natural resources;
- (6) Timber operations; and
- (7) Activities to which section 469.447 applies.

469.429. ALLOCATIONS TO PRINCIPAL. — A trustee shall allocate to principal:

(1) To the extent not allocated to income pursuant to sections 469.401 to 469.467, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

(2) Money or other property received from the sale, exchange, liquidation or change in form of a principal asset, including realized profit, subject to sections 469.423 to 469.467;

(3) Amounts recovered from third parties to reimburse the trust because of disbursements described in subdivision (7) of subsection 1 of section 469.453 or for other reasons to the extent not based on the loss of income;

(4) Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

(5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or shall distribute income; and

(6) Other receipts as provided in sections 469.435 to 469.449.

469.431. RENTAL PROPERTY, ALLOCATION TO INCOME. — To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, shall be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

469.432. INTEREST ALLOCATED TO INCOME — AMOUNTS RECEIVED FROM SALE, REDEMPTION OR DISPOSITION OF AN OBLIGATION TO PAY MONEY TO PRINCIPAL. — 1. An amount received as interest, whether determined at a fixed, variable or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, shall be allocated to income without any provision for amortization of premium.

2. A trustee shall allocate to principal an amount received from the sale, redemption or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust shall be allocated to income.

3. This section does not apply to an obligation to which section 469.437, 469.439, 469.441, 469.443, 469.447 or 469.449 applies.

469.433. LIFE INSURANCE PROCEEDS ALLOCATED TO PRINCIPAL — DIVIDENDS ALLOCATED TO INCOME. — 1. Except as otherwise provided in subsection 2 of this section, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.

2. A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to section 469.427, loss of profits from a business.

3. This section does not apply to a contract to which section 469.437 applies.

469.435. INSUBSTANTIAL AMOUNTS MAY BE ALLOCATED TO PRINCIPAL, EXCEPTIONS — PRESUMPTION OF INSUBSTANTIAL AMOUNT, WHEN. — If a trustee determines that an allocation between principal and income required by section 469.437, 469.439, 469.441, 469.443 or 469.447 is insubstantial, the trustee may allocate the entire amount to principal

unless one of the circumstances described in subsection 3 of section 469.405 applies to the allocation. This power may be exercised by a co-trustee in the circumstances described in subsection 4 of section 469.405 and may be released for the reasons and in the manner described in subsection 5 of section 469.405. An allocation is presumed to be insubstantial if:

- (1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent; or
- (2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent of the total value of the trust's assets at the beginning of the accounting period.

469.437. DISTRIBUTIONS ALLOCATED AS INCOME, WHEN — DEFINITIONS — BALANCE ALLOCATED TO PRINCIPAL, WHEN — EFFECT OF SEPARATE ACCOUNTS OR FUNDS. — 1. As used in this section, the following terms mean:

- (1) "Payment", an amount that is:
 - (a) Received or withdrawn from a plan; or
 - (b) One of a series of distributions that have been or will be received over a fixed number of years or during the life of one or more individuals under any contractual or other arrangement, or is a single payment from a plan that the trustee could have received over a fixed number of years or during the life of one or more individuals;
- (2) "Plan", a contractual, custodial, trust or other arrangement that provides for distributions to the trust, including, but not limited to, qualified retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and deferred compensation, including payments received directly from an entity as defined in section 469.423 regardless of whether or not such distributions are made from a specific fund or account.

2. If any portion of a payment is characterized as a distribution to the trustee of interest, dividends or a dividend equivalent, the trustee shall allocate the portion so characterized to income. The trustee shall allocate the balance of that payment to principal.

3. If no part of a payment is allocated to income pursuant to subsection 2 of this section, then for each accounting period of the trust that any payment is received by the trust with respect to the trust's interest in a plan, the trustee shall allocate to income that portion of the aggregate value of all payments received by the trustee in that accounting period equal to the amount of plan income attributable to the trust's interest in the plan for that calendar year. The trustee shall allocate the balance of that payment to principal.

4. For purposes of this section, if a payment is received from a plan that maintains a separate account or fund for its participants or account holders, including, but not limited to, defined contribution retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, and some types of deferred compensation plans, the phrase "plan income" shall mean either the amount of the plan account or fund held for the benefit of the trust that, if the plan account or fund were a trust, would be allocated to income pursuant to sections 469.401 to 469.467 for that accounting period, or four percent of the value of the plan account or fund on the first day of that accounting period. The method of determining plan income pursuant to this subsection shall be chosen by the trustee in the trustee's discretion. The trustees may change the method of determining plan income pursuant to this subsection for any future accounting period.

5. For purposes of this section if the payment is received from a plan that does not maintain a separate account or fund for its participants or account holders, including by way of example and not limitation defined benefit retirement plans and some types of deferred compensation plans, the term "plan income" shall mean four percent of the total

present value of the trust's interest in the plan as of the first day of the accounting period, based on reasonable actuarial assumptions as determined by the trustee.

6. If, to obtain an estate or gift tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

469.439. TEN PERCENT OF RECEIPTS FROM LIQUIDATING ASSET ALLOCATED TO INCOME, REMAINDER TO PRINCIPAL. — 1. As used in this section, the phrase "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The phrase includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. The phrase does not include a payment subject to section 469.437, resources subject to section 469.441, timber subject to section 469.443, an activity subject to section 469.447, an asset subject to section 469.449, or any asset for which the trustee establishes a reserve for depreciation pursuant to section 469.455.

2. A trustee shall allocate to income ten percent of the receipts from a liquidating asset and the balance to principal.

469.441. ALLOCATION OF INTEREST IN MINERALS OR OTHER NATURAL RESOURCES — INTEREST IN WATER, ALLOCATION OF. — 1. To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income;

(2) If received from a production payment, a receipt shall be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal;

(3) If an amount received as a royalty, shut-in- well payment, take-or-pay payment, bonus or delay rental is more than nominal, ninety percent shall be allocated to principal and the balance to income;

(4) If an amount is received from a working interest or any other interest not provided for in subdivision (1), (2) or (3) of this subsection, ninety percent of the net amount received shall be allocated to principal and the balance to income.

2. An amount received on account of an interest in water that is renewable shall be allocated to income. If the water is not renewable, ninety percent of the amount shall be allocated to principal and the balance to income.

3. Sections 469.401 to 469.467 apply whether or not a decedent or donor was extracting minerals, water or other natural resources before the interest became subject to the trust.

4. If a trust owns an interest in minerals, water or other natural resources on August 28, 2001, the trustee may allocate receipts from the interest as provided in sections 469.401 to 469.467 or in the manner used by the trustee before August 28, 2001. If the trust acquires an interest in minerals, water or other natural resources after August 28, 2001, the trustee shall allocate receipts from the interest as provided in sections 469.401 to 469.467.

469.443. SALE OF TIMBER AND RELATED PRODUCTS, ALLOCATION OF NET RECEIPTS. — 1. To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

(1) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

(2) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in subdivisions (1) and (2) of this subsection; or

(4) To principal to the extent that advance payments, bonuses and other payments are not allocated pursuant to either subdivision (1), (2) or (3) of this subsection.

2. In determining net receipts to be allocated pursuant to subsection 1 of this section, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

3. Sections 469.401 to 469.467 apply whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

4. If a trust owns an interest in timberland on August 28, 2001, the trustee may allocate net receipts from the sale of timber and related products as provided in sections 469.401 to 469.467 or in the manner used by the trustee before August 28, 2001. If the trust acquires an interest in timberland after August 28, 2001, the trustee shall allocate net receipts from the sale of timber and related products as provided in sections 469.401 to 469.467.

469.445. MARITAL DEDUCTION, INSUFFICIENT INCOME, ALLOWABLE ACTIONS. — 1. If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income pursuant to section 469.405 and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by subsection 1 of section 469.405. The trustee may decide which action or combination of actions to take.

2. In cases not governed by subsection 1 of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

469.447. TRANSACTIONS IN DERIVATIVES ALLOCATED TO PRINCIPAL — OPTIONS TO SELL OR BUY PROPERTY ALLOCATED TO PRINCIPAL. — 1. As used in this section, the term "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

2. To the extent that a trustee does not account pursuant to section 469.427 for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

3. If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting

the option shall be allocated to principal. An amount paid to acquire the option shall be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, shall be allocated to principal.

469.449. ALLOCATION OF COLLATERAL FINANCIAL ASSETS AND ASSET-BACKED SECURITIES. — 1. As used in this section, the phrase "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The phrase includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The phrase does not include an asset to which section 469.423 or 469.435 applies.

2. If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

3. If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate ten percent of the payment to income and the balance to principal.

469.451. REQUIRED DISBURSEMENTS FROM INCOME. — A trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subdivision (2) of section 469.413 applies:

- (1) One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;
- (2) One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;
- (3) All of the other ordinary expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and
- (4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

469.453. REQUIRED DISBURSEMENTS FROM PRINCIPAL. — 1. A trustee shall make the following disbursements from principal:

- (1) The remaining one-half of the disbursements described in subdivisions (1) and (2) of section 469.451;
- (2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;
- (3) Payments on the principal of a trust debt;
- (4) Expenses of a proceeding or other matter that concerns primarily an interest in principal;
- (5) Premiums paid on a policy of insurance not described in subdivision (4) of section 469.451 of which the trust is the owner and beneficiary;
- (6) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and
- (7) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of

substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

469.455. DEPRECIATION NOT TO BE TRANSFERRED. — 1. As used in this section, the term "depreciation" means a reduction in value due to wear, tear, decay, corrosion or gradual obsolescence of a fixed asset having a useful life of more than one year.

2. A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(1) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

(2) During the administration of a decedent's estate; or

(3) Pursuant to this section if the trustee is accounting pursuant to section 469.427 for the business or activity in which the asset is used.

3. An amount transferred to principal need not be held as a separate fund.

469.457. PRINCIPAL DISBURSEMENT, PERMITTED TRANSFERS. — 1. If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

2. Principal disbursements to which subsection 1 of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

(2) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;

(3) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

(4) Disbursements described in subdivision (7) of subsection 1 of section 469.453.

3. If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection 1 of this section.

469.459. TAXES TO BE PAID FROM INCOME OR PRINCIPAL, WHEN. — 1. A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

2. A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

3. A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately:

(1) From income to the extent that receipts from the entity are allocated to income; and

(2) From principal to the extent that:

(a) Receipts from the entity are allocated to principal; and

(b) The trust's share of the entity's taxable income exceeds the total receipts described in subdivision (1) of this subsection and paragraph (a) of subdivision (2) of this subsection.

4. For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

469.461. ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME, WHEN — ESTATE TAX MARITAL DEDUCTION OR CHARITABLE CONTRIBUTIONS, HOW HANDLED. — 1. A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(1) Elections and decisions, other than those described in subsection 2 of this section, that the fiduciary makes from time to time regarding tax matters;

(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

(3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust or a beneficiary.

2. If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust or beneficiary are decreased, each estate, trust or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust or beneficiary whose income taxes are reduced shall be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

469.463. UNIFORMITY CONSIDERED IN APPLICATION AND CONSTRUCTION. — In applying and construing sections 469.401 to 469.467, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

469.465. SEVERABILITY CLAUSE. — If any provision of sections 469.401 to 469.467 or the application of these sections to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 469.401 to 469.467 which can be given effect without the invalid provision or application.

469.467. APPLICABILITY OF SECTIONS. — Sections 469.401 to 469.467 apply to every trust or decedent's estate existing on August 28, 2001, except as otherwise expressly provided in the will or terms of the trust or in sections 469.401 to 469.467.

[456.012. RECEIPTS FROM FUNDS HELD IN TRUST, HOW ALLOCATED. — Trustees, executors, administrators, and conservators of the estates of minors and disabled persons, unless the terms of the instruments, if any, under which they are acting otherwise provide, shall allocate receipts from sources described in section 456.013 in accordance with that section.]

[456.013. PRINCIPAL AND INCOME DISTINGUISHED — WHAT RECEIPTS AFFECTED. —

1. Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

2. The provisions of sections 456.012 and 456.013 shall apply to any receipts received after October 13, 1969, by any trust, guardianship or decedent's estate whether established before or after October 13, 1969, and whether the asset involved was acquired before or after October 13, 1969.]

[456.700. DEFINITIONS. — As used in this chapter:

(1) "Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income;

(2) "Inventory value" means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but the trustee may use any value finally determined for the purposes of an estate or other transfer tax;

(3) "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal;

(4) "Trustee" means an original trustee and any successor or added trustee.]

[456.710. RECEIPTS AND EXPENDITURES, DUTY OF TRUSTEE. — 1. A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each:

(1) In accordance with the terms of the trust instrument, notwithstanding contrary provisions of this chapter;

(2) In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this chapter; or

(3) If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion and judgment would act in the management of the affairs of others.

2. If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to a provision of this chapter.]

[456.720. INCOME — PRINCIPAL — CHARGES — DEFINITIONS, AND WHAT EACH INCLUDES. — 1. Income is the return in money or property derived from the use of principal or income, including return received as:

(1) Rent of real or personal property, including sums received for cancellation or renewal of a lease;

(2) Interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in section 456.760 on bond premium and bond discount;

(3) Income earned during administration of a decedent's estate as provided in section 456.740;

(4) Corporate distributions as provided in section 456.750;

(5) Accrued increment on bonds or other obligations issued at discount as provided in section 456.760;

(6) Receipts from business and farming operations as provided in section 456.770;

(7) Receipts from disposition of natural resources as provided in sections 456.780 and 456.790;

(8) Receipts from other principal subject to depletion as provided in section 456.800.

2. Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes:

(1) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement of a change in the form of principal;

(2) Proceeds of property taken on eminent domain proceedings;

(3) Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;

(4) Stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in section 456.750;

(5) Receipts from the disposition of corporate securities as provided in section 456.760;

(6) Royalties and other receipts from disposition of natural resources as provided in sections 456.780 and 456.790;

(7) Receipts from other principal subject to depletion as provided in section 456.800;

(8) Any profit resulting from any change in the form of principal;

(9) Any allowances for depreciation established under section 456.770 and subdivision (2) of subsection 1 of section 456.810.

3. After determining income and principal in accordance with the terms of the trust instrument or of this chapter, the trustee shall charge to income or principal expenses and other charges as provided in section 456.810.]

[456.730. WHEN RIGHT TO INCOME ARISES — APPORTIONMENT OF INCOME — DISTRIBUTION BY POWER OF APPOINTMENT, WHEN. — 1. An income beneficiary is entitled to income from the date specified in the trust instrument, or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate; but, during such period of administration the personal representative of the testator's estate shall have no duty to distribute income currently to any such income beneficiary, unless otherwise provided by the governing instrument.

2. In the administration of a decedent's estate or an asset becoming subject to a trust by reason of a will:

(1) Receipts due but not paid at the date of death of the testator are principal;

(2) Receipts in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due at the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal, and the balance is income.

3. In all other cases, any receipt from an income-producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

4. On termination of an income interest, the income beneficiary whose interest is terminated, or his estate, is entitled to:

(1) Income undistributed on the date of termination;

(2) Income due but not paid to the trustee on the date of termination;

(3) Income in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due on the date of termination, accrued from day to day.

5. Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

6. Unless the terms of the trust refer to this subsection and provide otherwise, upon the death of an income beneficiary who was the spouse of the settlor at the time any property was considered transferred to the trust by the settlor for federal gift tax purposes or was the surviving spouse of a decedent in whose gross estate for federal estate tax purposes was included property which was considered transferred to the trust for federal estate tax purposes as a result of the decedent's death, any item of income described in subsection 4 of this section which is not payable to the estate of the income beneficiary pursuant to that subsection or pursuant to the terms of the trust shall be distributed to those persons, associations, corporations, trusts or governmental agencies, including the estate of the income beneficiary, who shall be appointed to receive such items of income by the income beneficiary by a provision in such beneficiary's will or an inter vivos deed or other instrument signed by such beneficiary. Such power of appointment shall be exercisable by the income beneficiary alone and in all events. If the income beneficiary shall fail so to provide for the appointment of all of such items of income, or if any such provisions shall, for any reason, not effectively appoint all of such items of income, all of such items of income not so effectively appointed shall be distributed pursuant to the terms of the trust. This subsection shall be effective with respect to all wills and revocable inter vivos trusts executed or created by persons who die or have died after December 31, 1981, and to irrevocable inter vivos trusts which are or have been created after December 31, 1981.]

[456.740. INCOME EARNED DURING ADMINISTRATION OF A DECEDENT'S ESTATE. — 1.

Unless the will otherwise provides, and subject to subsection 2 of this section, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs shall be charged against the principal of the estate.

2. Unless the will otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trustee under this chapter and distributed as follows:

(1) To specific legatees and devisees, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses of management and operation of the property, and an appropriate portion of interest accrued since the death of the testator on indebtedness secured by such property and of taxes imposed on income, excluding taxes on capital gains, which accrue during the period of administration;

(2) To the legatee of a pecuniary bequest not in trust to the extent the same remains unsatisfied twelve months after the date of the death of the testator, interest, which shall be paid from the balance of the income, at a rate equal to that allowed by law on money due upon order of the court, except that if the court finds that any such bequest cannot be paid without jeopardizing the rights of interested parties because of litigation or other circumstances, the court shall determine what rate of interest, if any, shall be allowed, after taking into consideration the income of the estate; and

(3) To all other legatees and devisees, except legatees of pecuniary bequests not in trust, the remaining balance of the income, less the balance of taxes, ordinary repairs, and other expenses of management and operation of all property from which the estate is entitled to income, interest accrued since the death of the testator, interest paid by the estate with respect to estate taxes and taxes imposed on income, excluding taxes on capital gains, which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of inventory value; but the amount of income earned during the further administration of the estate from and after the date or dates of payment of any estate tax shall be distributed to such beneficiaries in proportion to their

respective interests in the undistributed assets of the estate after the making of such payments on the basis of the fair market value of such assets immediately after the making of such payment.

3. Income received by a trustee under subsection 2 of this section shall be treated as income of the trust.]

[456.750. CORPORATE DISTRIBUTION. — 1. Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their ownership and the proceeds of any sale of the right are principal.

2. Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to:

- (1) A call of shares;
- (2) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or
- (3) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

3. Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

4. Except as provided in subsections 1, 2, and 3 of this section, or unless the trustee determines otherwise, as provided in subsection 5 of this section, all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subsections 2 and 3 of this section, or otherwise determined by the trustee pursuant to subsection 5 of this section, if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

5. The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this chapter concerning the source or character of dividends or distributions of corporate assets.]

[456.760. BONDS, PREMIUM AND DISCOUNT. — 1. Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subsection 2 for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

2. The increment in value of a bond or other obligation for the payment of money payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued is distributable as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized.]

[456.770. BUSINESS OR FARMING OPERATION, CALCULATION AND TREATMENT OF PROFITS, LOSSES. — 1. If a trustee uses any part of the principal in the continuance of a business of which the settlor was a sole proprietor or a partner, the net profits and losses of the business shall be computed in accordance with generally accepted accounting principles for a comparable business. Net profits are income; and if a loss results in any fiscal year, the loss shall be carried into a subsequent fiscal year for purposes of computing income of the business.

2. Generally accepted accounting principles shall be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.]

[456.780. DISPOSITION OF NATURAL RESOURCES. — 1. Unless the governing instrument provides otherwise or the decedent prior to death or the settlor treated the receipts otherwise, if any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

(1) If received as rent on a lease or extension payments on a lease, the receipts are income;

(2) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payments bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income;

(3) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding subdivisions of this subsection shall be apportioned on a yearly basis in accordance with this subdivision whether or not any natural resource was being taken from the land at the time the trust was established. Fifteen percent of the gross receipts, but not to exceed fifty percent of the net receipts remaining after payment of all expenses, direct and indirect, computed without allowance for depletion, shall be added to principal as an allowance for depletion. The balance of the gross receipts, after payment therefrom of all expenses, direct and indirect, is income.

2. If a trustee, on September 28, 1983, held an item of depletable property of a type specified in this section, he shall allocate receipts from the property in the manner used before September 28, 1983, but as to all depletable property acquired on or after September 28, 1983, by an existing or new trust, the method of allocation provided herein shall be used.

3. This section does not apply to timber, water, soil, sod, turf, or mosses.]

[456.790. TIMBER. — If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with subdivision (3) of subsection 1 of section 456.710.]

[456.800. OTHER PROPERTY SUBJECT TO DEPLETION. — Except as provided in sections 456.780 and 456.790, if the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, rights to receive payments from a benefit plan including, without limitations, any pension, retirement, individual retirement, death benefit, stock bonus or profit sharing plan, or system of trust, and rights to receive payments on a contract for deferred compensation, in no event shall the trust be deemed to have received income with respect to such property until the trust receives a distribution with respect to such property, and, in any event, only ten percent of the receipts from such property on a noncumulative basis is income, and the balance is principal.]

[456.810. CHARGES AGAINST INCOME AND PRINCIPAL. — 1. The following charges shall be made against income:

(1) Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee, interest paid by the trustee, and ordinary repairs;

(2) A reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance shall be made for depreciation of that portion of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on September 28, 1983, for which the trustee is not then making an allowance for depreciation;

(3) Court costs, attorney's fees, and other fees on accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise;

(4) One-half of the trustee's regular compensation, whether based on a percentage of principal or income, and all expenses reasonably incurred for current management of principal and application of income;

(5) Any tax levied upon receipts defined as income under the provisions of this chapter or the trust instrument and payable by the trustee.

2. If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

3. The following charges shall be made against principal:

(1) Trustee's compensation not chargeable to income under subdivisions (3) and (4) of subsection 1, special compensation of trustees, expenses reasonably incurred in connection with principal, court costs and attorney's fees primarily concerning matters of principal, and trustee's compensation computed on principal as an acceptance, distribution, or termination fee;

(2) Charges not provided for in subsection 1, including the cost of investing and reinvesting principal, the payments on principal of an indebtedness, including a mortgage amortized by periodic payments of principal, expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;

(3) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subdivision (2) of subsection 1 and by section 456.770;

(4) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the taxing authority;

(5) If an estate tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest and penalties, even though the income beneficiary also has rights in the principal.

4. Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under section 456.730.]

[456.820. APPLICATION OF PRINCIPAL AND INCOME SECTIONS. — Except as specifically provided in the trust instrument or the will or in sections 456.700 to 456.820, these sections shall apply to any receipt or expense received or incurred on or after September 28, 1983, by any trust or decedent's estate whether established before or on or after September 28, 1983, and whether the asset involved was acquired by the trustee before or on or after September 28, 1983.]

Approved July 6, 2001

HB 242 [SCS HB 242]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows a transient guest tax to be adopted in the cities of Clarksville and Louisiana.

AN ACT to repeal sections 67.1003 and 67.1360, RSMo 2000, relating to tourism taxes in certain cities, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.

67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1003 and 67.1360, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 67.1003 and 67.1360, to read as follows:

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county or a county of the third classification with a population of (1) more than seven thousand but less than seven thousand four hundred inhabitants; (2) or a third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand; (3) or a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand or any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, **except that cities of the third class having more than two thousand five hundred hotel and motel rooms and located in a county of the first classification where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.**

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

☐ YES ☐ NO

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred [and];

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003[, or];

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants[, or];

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants[, or];

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants[, or];

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants[, or];

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants[, or];

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand[, or];

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand [or];

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand[, or];

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand [and];

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty- eight thousand but not more than thirty thousand[, or];

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand[, or];

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with

a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) **Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;**

(16) **Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;**

(17) **Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;**

(18) **Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants; or**

(19) **Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;**

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

Approved June 26, 2001

HB 266 [HB 266]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds a new provision relating to commissions for real estate brokers.

AN ACT to amend chapter 339, RSMo, relating to real estate agents and brokers by adding thereto one new section relating to the same subject.

SECTION

A. Enacting clause.

339.151. No commission or consideration unless reasonable cause for payment or contractual relationship exists.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 339, RSMo, is amended by adding thereto one new section, to be known as section 339.151, to read as follows:

339.151. NO COMMISSION OR CONSIDERATION UNLESS REASONABLE CAUSE FOR PAYMENT OR CONTRACTUAL RELATIONSHIP EXISTS. — 1. No licensee shall pay a commission or any other valuable consideration unless reasonable cause for payment exists or a contractual relationship exists with the licensee. Reasonable cause does not exist unless the party seeking the compensation or other valuable consideration actually introduces the business to the real estate licensee before a relationship is established between the licensee and a principal to the transaction, including, but not limited to:

- (1) A subagency relationship;
- (2) A transaction brokerage relationship; or
- (3) A cooperative brokerage relationship.

2. It shall be a violation of this section to:

(1) Solicit or request compensation or other valuable consideration from a real estate licensee without reasonable cause;

(2) Interfere with a written representation relationship of another licensee or attempt to induce a customer or client to break a written representation agreement with another licensee for the purpose of replacing such agreement with a new representation agreement in order to obtain a commission or other valuable consideration. Interfering with the written representation agreement of another licensee includes, but is not limited to:

(a) Threatening to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a customer or client of a real estate licensee because of an existing representation agreement in order to obtain compensation or other valuable consideration; or

(b) Counseling a customer or client of another real estate licensee on how to terminate or amend an existing relationship agreement in order to obtain a commission or other valuable consideration. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered interference as long as the communication does not involve advice or encouragement on how to terminate or amend an existing relationship agreement.

3. The fact that reasonable cause to solicit or request a commission or other valuable consideration exists does not necessarily mean that a legal right to the commission or other valuable consideration exists.

4. Any violation of this section shall be grounds for investigation, complaint, proceedings and discipline pursuant to section 339.100.

5. Nothing in this chapter shall prevent any consumer from joining any organization in which one of the benefits of membership may be that such organization can negotiate a reduced rate or price for real estate costs for its members nor shall it prohibit an inducement to the buyer or lessee paid and supplied by the owner of the property directly to a buyer or lessee of the property.

6. Nothing in this section shall be construed to limit the ability of an employer to direct an employee to follow the terms of the relocation package provided for that employee, nor shall it be construed to limit an employer's choice of relocation service providers.

Approved July 10, 2001

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows up to a five-day reduction, for this year only, of the minimum 174 school day requirement.

AN ACT to repeal section 171.033, RSMo 2000, relating to inclement weather exceptions for mandatory days of school attendance, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

SECTION

A. Enacting clause.

171.033. Make-up of days lost or canceled — exemption, when — waiver for schools in session twelve months of year, granted when.

B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 171.033, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 171.033, to read as follows:

171.033. MAKE-UP OF DAYS LOST OR CANCELED — EXEMPTION, WHEN — WAIVER FOR SCHOOLS IN SESSION TWELVE MONTHS OF YEAR, GRANTED WHEN. — 1. Except as provided in [subsection 4] **subsections 3 and 4** of this section, no school district shall be exempt from any requirement to make up any days of school lost or canceled due to inclement weather, unless that school district schedules at least two-thirds as many make-up days for a school year as were lost in the previous school year, which days shall be in addition to the school calendar days required for a school term by section 171.031.

2. If, after using the make-up days referred to in subsection 1, a district does not meet the requirement for a term of one hundred seventy-four days of actual pupil attendance, it shall be required to make up no more than eight additional days of school lost or canceled due to inclement weather and half the number of days lost or canceled in excess of eight days.

3. In [1993-1994 school year, or the 1994-1995 school year if the school board in such school districts determines it is necessary] **the 2000-2001 school year**, a school district may be exempt from the requirement to make up days of school lost or canceled due to [flooding] **inclement weather occurring after November 20, 2000**, in the school district, but such reduction of the minimum number of school days shall not exceed [eleven] **five** days [per year] **when a district has missed more than seven days overall, such reduction to be taken as follows: one day for eight days missed, two days for nine days missed, three days for ten days missed, four days for eleven days missed, and five days for twelve or more days missed. The requirement for scheduling two-thirds of the missed days into the next year's calendar pursuant to subsection 1 of this section shall be waived for the 2001-2002 school year. A school district which held class for a full school day during the 2000-01 school year and after November 20, 2000, on a day in which at least one adjoining school district or at least one other district headquartered in the same county cancelled classes due to inclement weather may report its daily attendance for such day, for the purposes of determining state school aid pursuant to section 163.031, RSMo, based upon the district's average daily attendance for the preceding school year, provided that no district may report attendance pursuant to this subsection for more than five school days during the 2000-01 school year.**

4. The commissioner of education may provide, for any school district in which schools are in session for twelve months of each calendar year that cannot meet the minimum school calendar requirement of at least one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance, upon request, a waiver to be excused from such requirement.

This waiver shall be requested from the commissioner of education and may be granted if the school was closed due to circumstances beyond school district control, including inclement weather, flooding or fire.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify potential school scheduling and funding problems, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 11, 2001

HB 279 [HCS HB 279]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the newborn screening requirements to include more treatable and manageable disorders.

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to supplemental newborn screening.

SECTION

A. Enacting clause.

191.332. Supplemental newborn screening requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.332, to read as follows:

191.332. SUPPLEMENTAL NEWBORN SCREENING REQUIREMENTS. — **1. By January 1, 2002, the department of health shall, subject to appropriations, expand the newborn screening requirements in section 191.331 to include potentially treatable or manageable disorders, including cystic fibrosis, galactosemia, biotinidase deficiency, congenital adrenal hyperplasia, maple syrup urine disease (MSUD) and other amino acid disorders, glucose-6-phosphate dehydrogenase deficiency (G-6-PD), MCAD and other fatty acid oxidation disorders, methylmalonic acidemia, propionic acidemia, isovaleric acidemia and glutaric acidemia Type I.**

2. The department of health may promulgate rules to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

Approved June 13, 2001

HB 302 [CCS#2 SCS HCS HB 302 & 38]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Lowers the blood alcohol content level necessary for a conviction of driving with excessive blood alcohol content from .10 to .08.

AN ACT to repeal sections 302.302, 302.304, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 479.500, 577.012, 577.021, 577.023, 577.037, 577.041, 577.600 and 577.602, RSMo 2000, relating to traffic offenses, and to enact in lieu thereof eighteen new sections relating to the same subject, with penalty provisions, an effective date for certain sections.

SECTION

- A. Enacting clause.
- 302.302. Point system — assessment for violation — assessment of points stayed, when, procedure.
- 302.304. Notice of points — suspension or revocation of license, when, duration — reinstatement, condition, point reduction, fee — failure to maintain proof of financial responsibility, effect — point reduction prior to conviction, effect — surrender of license — reinstatement of license when drugs or alcohol involved, assignment recommendation, judicial review — fees for program — supplemental fees.
- 302.309. Return of license, when — limited driving privilege, when granted, application, when denied — judicial review of denial by director of revenue — rulemaking.
- 302.505. Determination by department to suspend or revoke license, when made, basis — final, when.
- 302.510. Arresting officer, duties — certain arrests not to be basis for administrative suspension or revocation.
- 302.520. Arresting officer to serve notice of suspension or revocation, when — to possess license, issue temporary permit, give written notice of driver's rights and responsibilities — application for hearing.
- 302.535. Trial de novo, conduct, venue, what judge may hear, when — restricted driving privilege, when, duration of.
- 302.540. Reinstatement of license — completion of substance abuse traffic offender program a condition — individual assessment, judicial review — fees and cost, distribution of — treatment demonstration project may be created.
- 302.541. Additional reinstatement fee, license to operate motor vehicle, when — proof of financial responsibility, not required, when.
- 304.027. Spinal cord injury fund created, uses — judgments imposed, when.
- 479.500. Traffic court may be established in twenty-first judicial circuit — appointment of judges — procedure and operation — jurisdiction — qualification of traffic judges, compensation — pleas without personal appearance — recording of proceedings — costs of establishment and operation.
- 577.012. Driving with excessive blood alcohol content.
- 577.021. Chemical testing authorized, admissibility.
- 577.023. Persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
- 577.037. Chemical tests, results admitted into evidence, when, effect of.
- 577.041. Refusal to submit to chemical test — notice, report of peace officer, contents — revocation of license, hearing — evidence, admissibility — reinstatement of licenses — substance abuse traffic offender program — assignment recommendations, judicial review — fees.
- 577.600. Court may require ignition interlock device, when, compliance — use of other vehicle — penalty.
- 577.602. Cost of interlock device may reduce amount of fine — vehicles affected — proof of compliance, when, report — maintenance cost — calibration checks.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 302.302, 302.304, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 479.500, 577.012, 577.021, 577.023, 577.037, 577.041, 577.600 and 577.602, RSMo 2000, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 302.302, 302.304, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 304.027, 479.500, 577.012, 577.021, 577.023, 577.037, 577.041, 577.600 and 577.602, to read as follows:

302.302. POINT SYSTEM — ASSESSMENT FOR VIOLATION — ASSESSMENT OF POINTS STAYED, WHEN, PROCEDURE. — 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

- (1) Any moving violation of a state law or county or municipal or federal

- traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points
- (except any violation of municipal stop sign ordinance where no accident is involved)..... 1 point)
- (2) Speeding
- In violation of a state law 3 points
- In violation of a county or municipal ordinance 2 points
- (3) Leaving the scene of an accident in violation of section 577.060, RSMo ... 12 points
- In violation of any county or municipal ordinance 6 points
- (4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo 4 points
- In violation of a county or municipal ordinance 2 points
- (5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:
- (a) For the first conviction 2 points
- (b) For the second conviction 4 points
- (c) For the third conviction 6 points
- (6) Operating with a suspended or revoked license prior to restoration of operating privileges 12 points
- (7) Obtaining a license by misrepresentation 12 points
- (8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs 8 points
- (9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of [ten-hundredths] **eight-hundredths** of one percent or more by weight 12 points
- (10) For the first conviction for driving with blood alcohol content [ten-hundredths] **eight-hundredths** of one percent or more by weight
- In violation of state law 8 points
- In violation of a county or municipal ordinance or federal law or regulation 8 points
- (11) Any felony involving the use of a motor vehicle 12 points
- (12) Knowingly permitting unlicensed operator to operate a motor vehicle 4 points
- (13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo 4 points
2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.
3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.
4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.
5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-

improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2), or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

302.304. NOTICE OF POINTS — SUSPENSION OR REVOCATION OF LICENSE, WHEN, DURATION — REINSTATEMENT, CONDITION, POINT REDUCTION, FEE — FAILURE TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY, EFFECT — POINT REDUCTION PRIOR TO CONVICTION, EFFECT — SURRENDER OF LICENSE — REINSTATEMENT OF LICENSE WHEN DRUGS OR ALCOHOL INVOLVED, ASSIGNMENT RECOMMENDATION, JUDICIAL REVIEW — FEES FOR PROGRAM — SUPPLEMENTAL FEES. — 1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

(1) In the case of an initial suspension, thirty days after the effective date of the suspension;

(2) In the case of a second suspension, sixty days after the effective date of the suspension;

(3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension. Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege issued by the director of revenue for the limited purpose of driving between a residence and a place of

employment, or to and from an alcohol education or treatment program, or for both between a residence and a place of employment and to and from such a program. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed forces to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a hardship driving privilege granted by a court.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

13. Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.

14. No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection

1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, [except] **or a program determined to be comparable by the department** [may waive such requirement upon completion of a comparable program or upon good cause shown or the court may waive such requirement upon good cause shown. The court in making this determination shall consider the person's driving record, the circumstances surrounding the offense and the likelihood of the person committing a like offense in the future]. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo[, after reviewing such assessment]. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. **Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such persons' blood.** [Such assessment and] Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

15. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

302.309. RETURN OF LICENSE, WHEN — LIMITED DRIVING PRIVILEGE, WHEN GRANTED, APPLICATION, WHEN DENIED — JUDICIAL REVIEW OF DENIAL BY DIRECTOR OF REVENUE — RULEMAKING. — 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;

(c) Attending school or other institution of higher education;
(d) Attending alcohol or drug treatment programs; or
(e) Any other circumstance the court or director finds would create an undue hardship on the operator; the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) The court order or the director's grant of the limited driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(5) Except as provided in subdivision (6) of this subsection, no person is eligible to receive a limited driving privilege who at the time of application for a limited driving privilege has previously been granted such a privilege within the immediately preceding five years, or whose license has been suspended or revoked for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in section 577.060, RSMo;

(e) Due to a revocation for the first time for failure to submit to a chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if such person has not completed the first ninety days of such revocation;

(f) Violation more than once of the provisions of section 577.041, RSMo, or a similar implied consent law of any other state;

(g) Disqualification of a commercial driver's license pursuant to sections 302.700 to 302.780, however, nothing in this subsection shall prevent a person holding a commercial driver's license who is suspended or revoked as a result of an action occurring while not driving a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an operator of a personal vehicle from applying for a limited driving privilege to operate a commercial vehicle, if otherwise eligible for such limited privilege; or

(h) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed such revocation.

(6) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least three years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least two years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,**

are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

302.505. DETERMINATION BY DEPARTMENT TO SUSPEND OR REVOKE LICENSE, WHEN MADE, BASIS — FINAL, WHEN. — 1. The department shall suspend or revoke the license of any person upon its determination that the person was arrested upon probable cause to believe such person was driving a motor vehicle while the alcohol concentration in the person's blood, breath, or urine was [ten-hundredths] **eight-hundredths** of one percent or more by weight, based on the definition of alcohol concentration in section 302.500, or where such person was less than twenty-one years of age when stopped and was stopped upon probable cause to believe such person was driving while intoxicated in violation of section 577.010, RSMo, or driving with excessive blood alcohol content in violation of section 577.012, RSMo, or upon probable cause to believe such person violated a state, county or municipal traffic offense and such person was driving with a blood alcohol content of two-hundredths of one percent or more by weight.

2. The department shall make a determination of these facts on the basis of the report of a law enforcement officer required in section 302.510, and this determination shall be final unless a hearing is requested and held. If a hearing is held, the department shall review the matter and make a final determination on the basis of evidence received at the hearing.

3. The determination of these facts by the department is independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect any suspension or revocation under this section.

302.510. ARRESTING OFFICER, DUTIES — CERTAIN ARRESTS NOT TO BE BASIS FOR ADMINISTRATIVE SUSPENSION OR REVOCATION. — 1. Except as provided in subsection 3 of this section, a law enforcement officer who arrests any person for a violation of any state statute related to driving while intoxicated or for a violation of a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense, and in which the alcohol concentration in the person's blood, breath, or urine was [ten-hundredths] **eight-hundredths** of one percent or more by weight or two-hundredths of one percent or more by weight for anyone less than twenty-one years of age, shall forward to the department a verified report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated any state statute related to driving while intoxicated or was less than twenty-one years of age and was driving with two-hundredths of one percent or more by weight of alcohol in the person's blood, or a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense, a report of the results of any chemical tests which were conducted, and a copy of the citation and complaint filed with the court.

2. The report required by this section shall be made on forms supplied by the department or in a manner specified by regulations of the department.

3. A county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense may not be the basis for suspension or revocation of a driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement officer, other than an elected peace officer or official, has been certified by the director of the department of public safety pursuant to the provisions of sections 590.100 to 590.180, RSMo.

302.520. ARRESTING OFFICER TO SERVE NOTICE OF SUSPENSION OR REVOCATION, WHEN — TO POSSESS LICENSE, ISSUE TEMPORARY PERMIT, GIVE WRITTEN NOTICE OF DRIVER'S RIGHTS AND RESPONSIBILITIES — APPLICATION FOR HEARING. — 1. Whenever the chemical test results are available to the law enforcement officer while the arrested person

is still in custody, and where the results show an alcohol concentration of [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in such person's blood or where such person is less than twenty-one years of age and the results show that there is two-hundredths of one percent or more of alcohol in the person's blood, the officer, acting on behalf of the department, shall serve the notice of suspension or revocation personally on the arrested person.

2. When the law enforcement officer serves the notice of suspension or revocation, the officer shall take possession of any driver's license issued by this state which is held by the person. When the officer takes possession of a valid driver's license issued by this state, the officer, acting on behalf of the department, shall issue a temporary permit which is valid for fifteen days after its date of issuance and shall also give the person arrested a notice which shall inform the person of all rights and responsibilities pursuant to sections 302.500 to 302.540. The notice shall be in such form so that the arrested person may sign the original as evidence of receipt thereof. The notice shall also contain a detachable form permitting the arrested person to request a hearing. Signing the hearing request form and mailing such request to the department shall constitute a formal application for a hearing.

3. A copy of the completed notice of suspension or revocation form, a copy of any completed temporary permit form, a copy of the notice of rights and responsibilities given to the arrested person, including any request for hearing, and any driver's license taken into possession pursuant to this section shall be forwarded to the department by the officer along with the report required in section 302.510.

4. The department shall provide forms for notice of suspension or revocation, for notice of rights and responsibilities, for request for a hearing and for temporary permits to law enforcement agencies.

302.535. TRIAL DE NOVO, CONDUCT, VENUE, WHAT JUDGE MAY HEAR, WHEN — RESTRICTED DRIVING PRIVILEGE, WHEN, DURATION OF. — 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. **Until January 1, 2002**, the presiding judge of the circuit court may assign a traffic judge, pursuant to section 479.500, RSMo 1994, a circuit judge or an associate circuit judge to hear such petition. **After January 1, 2002, pursuant to local court rule pursuant to Article V, Section 15 of the Missouri Constitution, the case may be assigned to a circuit judge or an associate circuit judge, or to a traffic judge pursuant to section 479.500, RSMo.**

2. The filing of a petition for trial de novo shall not result in a stay of the suspension or revocation order. But upon the filing of such petition, a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education shall be issued by the department if the person's driving record shows no prior alcohol related enforcement contact during the immediately preceding five years. Such limited driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

3. In addition to the limited driving privilege as permitted in subsection 2 of this section, the department may upon the filing of a petition for trial de novo issue a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education. In determining whether to issue such a restrictive driving privilege, the department shall consider the number and the seriousness of prior convictions and the entire driving record of the driver.

4. Such time of restricted driving privilege pending disposition of trial de novo shall be counted toward any time of restricted driving privilege imposed pursuant to section 302.525. Nothing in this subsection shall be construed to prevent a person from maintaining his restricted

driving privilege for an additional sixty days in order to meet the conditions imposed by section 302.540 for reinstating a person's driver's license.

302.540. REINSTATEMENT OF LICENSE — COMPLETION OF SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM A CONDITION — INDIVIDUAL ASSESSMENT, JUDICIAL REVIEW — FEES AND COST, DISTRIBUTION OF — TREATMENT DEMONSTRATION PROJECT MAY BE CREATED. — 1. No person who has had a license to operate a motor vehicle suspended or revoked under the provisions of sections 302.500 to 302.540 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, [except] **or a program determined to be comparable by the department** [may waive such requirement upon completion of a comparable program or upon good cause shown or the court may waive such requirement upon good cause shown. The court in making this determination shall consider the person's driving record, the circumstances surrounding the offense and the likelihood of the person committing a like offense in the future]. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo[, after reviewing such assessment]. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. [Such assessment and] **Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such persons' blood.** Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

2. The fees for the program authorized in subsection 1 of this section, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

3. Court-ordered participation in a substance abuse traffic offender program, pursuant to section 577.049, RSMo, shall satisfy the requirements of this section if the court action arose out of the same occurrence that resulted in a person's license being administratively suspended or revoked.

4. The division of alcohol and drug abuse of the department of mental health may create a treatment demonstration project within existing appropriations and shall develop and certify a program to provide education or rehabilitation services for individuals determined by the division to be serious or repeat offenders. The program shall qualify as a substance abuse traffic offender program. As used in this subsection, a serious or

repeat offender is one who was determined to have a blood alcohol content of fifteen-hundredths of one percent or more by weight while operating a motor vehicle or a prior or persistent offender as defined in section 577.023, RSMo.

302.541. ADDITIONAL REINSTATEMENT FEE, LICENSE TO OPERATE MOTOR VEHICLE, WHEN — PROOF OF FINANCIAL RESPONSIBILITY, NOT REQUIRED, WHEN. — 1. In addition to other fees required by law, any person who has had a license to operate a motor vehicle suspended or revoked following a determination, pursuant to section 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo, or any county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney, that such person was driving while intoxicated or with a blood alcohol content of [ten-hundredths] **eight-hundredths** of one percent or more by weight or, where such person was at the time of the arrest less than twenty-one years of age and was driving with a blood alcohol content of two-hundredths of one percent or more by weight, shall pay an additional fee of twenty-five dollars prior to the reinstatement or reissuance of the license.

2. Any person less than twenty-one years of age whose driving privilege has been suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540 that such person was driving a motor vehicle with two-hundredths of one percent or more blood alcohol content is exempt from filing proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, as a prerequisite for reinstatement of driving privileges or obtaining a restricted driving privilege as provided by section 302.525.

304.027. SPINAL CORD INJURY FUND CREATED, USES — JUDGMENTS IMPOSED, WHEN. — 1. There is hereby created in the state treasury for use by the board of curators of the University of Missouri a fund to be known as the "Spinal Cord Injury Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the spinal cord injury fund established pursuant to sections 302.133 to 302.138, RSMo, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the board of curators, be received and expended by the board for the purpose of funding research projects that promote an advancement of knowledge in the area of spinal cord injury. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the spinal cord injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. Any person who is convicted of an intoxication-related offense, as defined by section 577.023, RSMo, shall have a judgment entered against the defendant in favor of the spinal cord injury fund, in the amount of twenty-five dollars.

3. The judgments collected pursuant to this section shall be paid into the state treasury to the credit of the spinal cord injury fund created in this section. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.

479.500. TRAFFIC COURT MAY BE ESTABLISHED IN TWENTY-FIRST JUDICIAL CIRCUIT — APPOINTMENT OF JUDGES — PROCEDURE AND OPERATION — JURISDICTION — QUALIFICATION OF TRAFFIC JUDGES, COMPENSATION — PLEAS WITHOUT PERSONAL APPEARANCE — RECORDING OF PROCEEDINGS — COSTS OF ESTABLISHMENT AND OPERATION. — 1. In the twenty-first judicial circuit, a majority of the circuit judges, en banc, may establish a traffic court, which shall be a division of the circuit court, and may authorize the appointment of not more than three municipal judges who shall be known as traffic judges. The traffic judges shall be appointed by a traffic court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members

appointed by the county executive of St. Louis County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the traffic court judicial commission shall be established by circuit court rule.

2. Traffic judges may be authorized to act as commissioners to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by circuit court rule. Traffic judges may also be authorized to hear in the first instance violations of county and municipal ordinances involving motor vehicles, and other county ordinance violations, as provided by circuit court rule.

3. In the event that a county municipal court is established pursuant to section 66.010, RSMo, which takes jurisdiction of county ordinance violations the circuit court may then authorize the appointment of no more than two traffic judges authorized to hear municipal ordinance violations other than county ordinance violations, and to act as commissioner to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by rule. These traffic court judges also may be authorized to act as commissioners to hear in the first instance petitions to review decisions of the department of revenue or the director of revenue filed pursuant to sections 302.309[.] and 302.311, [302.535 and 302.750.] RSMo, and, prior to January 1, 2002, pursuant to sections 302.535 and 302.750, RSMo.

4. After January 1, 2002, traffic judges, in addition to the authority provided in subsection 3 of this section, may be authorized by local court rule adopted pursuant to Article V, Section 15 of the Missouri Constitution to conduct proceedings pursuant to section 302.535 and 302.750, RSMo, subject to procedures that preserve a meaningful hearing before a judge of the circuit court, as follows:

(1) Conduct the initial call docket and accept uncontested dispositions of petitions to review;

(2) The petitioner shall have the right to the de novo hearing before a judge of the circuit court, except that, at the option of the petitioner, traffic judges may hear in the first instance such petitions for review.

[4.] 5. In establishing a traffic court, the circuit may be divided into such sectors as may be established by a majority of the circuit and associate circuit judges, en banc. The traffic court in each sector shall hear those cases arising within the territorial limits of the sector unless a case arising within another sector is transferred as provided by operating procedures.

[5.] 6. Traffic judges shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of St. Louis County, and shall receive from the state as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Each judge shall devote approximately one-third of his working time to the performance of his duties as a traffic judge. Traffic judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a traffic judge and shall not be a judge or prosecutor for any other court. Traffic judges shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

[6.] 7. A majority of the judges, en banc, shall establish operating procedures for the traffic court which shall provide for regular sessions in the evenings after 6:00 p.m. and for Saturday or other sessions as efficient operation and convenience to the public may require. Proceedings in the traffic court, except when a judge is acting as a commissioner pursuant to this section, shall be conducted as provided in supreme court rule 37. The hearing shall be before a traffic judge without jury, and the judge shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. [No term of imprisonment or confinement may be assessed by a traffic judge.] In the event a jury trial is requested, the cause shall be certified to the circuit court for trial by jury as otherwise

provided by law. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

[7.] **8.** In establishing operating procedure, provisions shall be made for appropriate circumstances whereby defendants may enter not guilty pleas and obtain trial dates by telephone or written communication without personal appearance, or to plead guilty and deliver by mail or electronic transfer or other approved method the specified amount of the fine and costs as otherwise provided by law, within a specified period of time.

[8.] **9.** Operating procedures shall be provided for electronic recording of proceedings, except that if adequate recording equipment is not provided at county expense, then, in that event, a person aggrieved by a judgment of a traffic judge or commissioner shall have the right of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases.

[9.] **10.** The circuit court shall only have the authority to appoint two commissioners with the jurisdiction provided in subsection 3 of this section.

[10.] **11.** All costs to establish and operate a county municipal court under section 66.010, RSMo, and this section shall be borne by such county.

577.012. DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONTENT. — 1. A person commits the crime of "driving with excessive blood alcohol content" if such person operates a motor vehicle in this state with [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in such person's blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041.

3. For the first offense, driving with excessive blood alcohol content is a class [C] **B** misdemeanor.

577.021. CHEMICAL TESTING AUTHORIZED, ADMISSIBILITY. — [A member of the state highway patrol] **Any state, county or municipal law enforcement officer who has the power of arrest for violations of section 577.010 or 577.012 and who is certified pursuant to chapter 590, RSMo,** may, prior to arrest, administer a chemical test to any person suspected of operating a motor vehicle in violation of section 577.010 or 577.012. A test administered pursuant to this section shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 577.020 shall not apply to a test administered prior to arrest pursuant to this section.

577.023. PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing;

(2) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses, where such two or more offenses occurred within ten years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo; and

(3) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. No court shall suspend the imposition of sentence as to a prior or persistent offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding[, nor shall such person]. No prior offender shall be eligible for parole or probation until he has served a minimum of [forty-eight consecutive hours] **five days** imprisonment, unless as a condition of such parole or probation such person performs at least [ten] **thirty** days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. **No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court.**

5. The court shall find the defendant to be a prior offender or persistent offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender or persistent offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender or persistent offender.

6. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

7. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

8. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

9. The defendant may waive proof of the facts alleged.

10. Nothing in this section shall prevent the use of presentence investigations or commitments.

11. At the sentencing hearing both the state and the defendant shall be permitted to present additional information bearing on the issue of sentence.

12. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

13. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders or persistent offenders.

14. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a conviction or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in a state court shall be treated as a prior conviction.

577.037. CHEMICAL TESTS, RESULTS ADMITTED INTO EVIDENCE, WHEN, EFFECT OF. —

1. Upon the trial of any person for violation of any of the provisions of section 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of any criminal action or violations of county or municipal ordinances or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts alleged to have been committed by any person while driving a motor vehicle while in an intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise admissible. If there was [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

3. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated.

4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in subsection 1 of this section, shall have been performed as provided in sections 577.020 to 577.041 and in accordance with methods and standards approved by the state department of health.

5. Any charge alleging a violation of section 577.010 or 577.012 or any county or municipal ordinance prohibiting driving while intoxicated or driving under the influence of alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood, saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated thereunder by the state department of health demonstrate that there was less than [ten-hundredths] **eight-hundredths** of one percent of alcohol in the defendant's blood unless one or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — NOTICE, REPORT OF PEACE OFFICER, CONTENTS — REVOCATION OF LICENSE, HEARING — EVIDENCE, ADMISSIBILITY — REINSTATEMENT OF LICENSES — SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM — ASSIGNMENT RECOMMENDATIONS, JUDICIAL REVIEW — FEES. — 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020,

then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a sworn report to the director of revenue, which shall include the following:

- (1) That the officer has:
 - (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or
 - (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or
 - (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;
- (2) That the person refused to submit to a chemical test;
- (3) Whether the officer secured the license to operate a motor vehicle of the person;
- (4) Whether the officer issued a fifteen-day temporary permit;
- (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and
- (6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

- (1) Whether or not the person was arrested or stopped;
- (2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, [except] **or a program determined to be comparable by the department or the court [may waive such requirement upon completion of a comparable program or upon good cause shown or the court may waive such requirement upon good cause shown. The court in making this determination shall consider the person's driving record, the circumstances surrounding the offense and the likelihood of the person committing a like offense in the future].** Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo[, after reviewing such assessment]. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. [Such assessment and] **Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such persons' blood.** Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

577.600. COURT MAY REQUIRE IGNITION INTERLOCK DEVICE, WHEN, COMPLIANCE — USE OF OTHER VEHICLE — PENALTY. — 1. [Beginning January 1, 1996,] In addition to any other provisions of law, a court may require that any person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as defined in section 577.023, and a court shall require that any person who is found guilty of or pleads guilty to a second **or subsequent** intoxication-related traffic offense, as defined in section 577.023, [who was granted probation,] shall not operate [a] **any** motor vehicle [during the period of probation] unless that vehicle is equipped with a functioning, certified ignition interlock device [as provided in sections 577.600 to 577.614] **for a period of not less than one month from the date of reinstatement of the person's drivers license.** In addition, any court authorized to grant a limited driving privilege under section 302.309, RSMo, [may] **to any person who is found guilty or pleads guilty to a second or subsequent intoxication-related traffic offense shall** require the use of an ignition interlock device **on all vehicles operated by the person** as a **required** condition of the limited driving privilege. Any person required to use an ignition interlock device shall comply with the court order, subject to the penalties provided by [sections 577.600 to 577.614] **this section.**

2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to have had [his] **that person's** driving privilege restricted as provided in subsection 1 of this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted as provided in subsection 1 of this section shall notify any other person who rents, leases or loans a motor vehicle to [him] **that person** of the driving restriction imposed [under] **pursuant to** this section.

3. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor.

577.602. COST OF INTERLOCK DEVICE MAY REDUCE AMOUNT OF FINE — VEHICLES AFFECTED — PROOF OF COMPLIANCE, WHEN, REPORT — MAINTENANCE COST — CALIBRATION CHECKS. — 1. [No court shall require the use of an ignition interlock device until it has made an affirmative finding that such a requirement will not impose any undue hardship by reason of the cost of the device or by reason of the difficulties associated with any necessary installation, testing, calibration, servicing or removal of the device. No court shall be required to require a person who is found guilty of or pleads guilty to a second intoxication-related traffic offense, as defined in section 577.023, to use an ignition interlock device as a condition of a limited driving privilege if such a device cannot be installed within fifty miles of the county seat of such person's county of residence; however, the court in such case may, in its discretion, require the use of such a device.

2.] If a court imposes a fine and requires the use of an ignition interlock device for the same offense, the amount of the fine may be reduced by the cost of the ignition interlock device.

[3.] **2.** If the court requires the use of an ignition interlock device, it shall order the installation of the device on any vehicle which the [probationer] **offender** operates during the period of probation or limited driving privilege.

[4.] **3.** If the court imposes the use of an ignition interlock device on a person having full or limited driving privileges, the court shall require the person to provide proof of compliance with the order to the court or the probation officer within thirty days of this court's order or sooner, as required by the court. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall revoke or terminate the person's probation or limited driving privilege.

[5.] **4.** Nothing in sections 577.600 to 577.614 shall be construed to authorize a person to operate a motor vehicle whose driving privileges have been suspended or revoked, unless the person has obtained a limited driving privilege or restricted driving privilege under other provisions of law.

[6.] **5.** The person whose driving privilege is restricted pursuant to section 577.600 shall report to the court or the probation officer at least once annually, or more frequently as the court

may order, on the operation of each ignition interlock device in the person's vehicle or vehicles. Such person shall be responsible for the cost and maintenance of the ignition interlock device. If such device is broken, destroyed or stolen, such person shall also be liable for the cost of replacement of the device.

[7.] **6.** The court may require a person whose driving privilege is restricted under section 577.600 to report to any officer appointed by the court in lieu of a probation officer.

[8.] **7.** The court shall require periodic calibration checks that are needed for the proper operation of the ignition interlock device.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 302.302, 302.309, 302.505, 302.510, 302.520, 302.541, 577.012, 577.023 and 577.037 shall become effective September 29, 2001.

Approved June 12, 2001

HB 321 [HB 321]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the termination date on the Kansas City public transportation sales tax from 2001 to 2003.

AN ACT to repeal section 92.402, RSMo 2000, relating to taxation for public mass transportation systems, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

92.402. Tax, how imposed — rate of tax — boundary changes, procedure, effect of.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 92.402, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

92.402. TAX, HOW IMPOSED — RATE OF TAX — BOUNDARY CHANGES, PROCEDURE, EFFECT OF. — 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the provisions of section 92.421. The remainder of the tax in excess of such seven and one-half percent shall expire on December 31, [2001] **2003**, on which date the authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail

a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

Approved June 26, 2001

HB 328 [SS#2 SCS HS HCS HB 328 & 88]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions regarding managed care.

AN ACT to repeal sections 197.285, 354.603, 354.606, 376.383 and 376.406, RSMo 2000, relating to the regulation of managed care, and to enact in lieu thereof eight new sections relating to the same subject, with an effective date for certain sections.

SECTION

- A. Enacting clause.
- 197.285. Protections for hospital and ambulatory surgical center employees for certain disclosures — written policy required — procedures for disclosure — anonymous reports.
- 354.603. Sufficiency of health carrier network, requirements — access plan filed with the department, when.
- 354.606. Providers notified of specific covered services, when — hold harmless provision — cessation of operations procedure — selection standards for health care professionals, filing with the department.
- 376.383. Health care claims for reimbursement, how paid, when — definitions — interest on unpaid claims — effective, when — penalties for unpaid claims, when — fraudulent claims, notification to the department, procedure — requests for additional information, contents.
- 376.384. Reimbursement of claims, duties of health carriers — claims submitted in electronic format, when — compliance monitored by department — complaint procedures developed — standard medical code sets required, when — rulemaking authority.
- 376.406. Newborn child to be covered under health policies, extent of coverage — notification of birth, when, effect of — definitions.
- 376.383. Health care claims for reimbursement, how paid, when — interest on unpaid claims — effective, when.
 - 1. Application for medical assistance, approval or denial, when — Medicaid payments to long-term care facilities, when.
 - 2. Denial of claims, applicant or policyholder not required to disclose to insurer.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 197.285, 354.603, 354.606, 376.383 and 376.406, RSMo 2000, are repealed and eight new sections enacted in lieu thereof, to be known as sections 197.285, 354.603, 354.606, 376.383, 376.384, 376.406, Section 1 and Section 2, to read as follows:

197.285. PROTECTIONS FOR HOSPITAL AND AMBULATORY SURGICAL CENTER EMPLOYEES FOR CERTAIN DISCLOSURES — WRITTEN POLICY REQUIRED — PROCEDURES

FOR DISCLOSURE — ANONYMOUS REPORTS. — 1. Hospitals and ambulatory surgical centers shall establish and implement a written policy adopted by each hospital and ambulatory surgical center relating to the protections for employees who disclose information pursuant to subsection 2 of this section. This policy shall include a time frame for completion of investigations related to complaints, not to exceed thirty days, and a method for notifying the complainant of the disposition of the investigation. This policy shall be submitted to the department of health to verify implementation. At a minimum, such policy shall include the following provisions:

(1) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall prohibit employees from disclosing information pursuant to subsection 2 of this section;

(2) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall use or threaten to use his or her supervisory authority to knowingly discriminate against, dismiss, penalize or in any way retaliate against or harass an employee because the employee in good faith reported or disclosed any information pursuant to subsection 2 of this section, or in any way attempt to dissuade, prevent or interfere with an employee who wishes to report or disclose such information;

(3) Establish a program to identify a compliance officer who is a designated person responsible for administering the reporting and investigation process and an alternate person should the primary designee be implicated in the report.

2. This section shall apply to information disclosed or reported in good faith by an employee concerning:

(1) Alleged facility mismanagement or fraudulent activity;

(2) Alleged violations of applicable federal or state laws or administrative rules concerning patient care, patient safety or facility safety; or

(3) The ability of employees to successfully perform their assigned duties.

All information disclosed, collected and maintained pursuant to this subsection and pursuant to the written policy requirements of this section shall be accessible to the department of health at all times and shall be reviewed by the department of health at least annually. Complainants shall be notified of the department of health's access to such information and of the complainant's right to [appeal to the department of health] **notify the department of health of any information concerning alleged violations of applicable federal or state laws or administrative rules concerning patient care, patient safety or facility safety.**

3. Prior to any disclosure to individuals or agencies other than the department of health, employees wishing to make a disclosure pursuant to the provisions of this section shall first report to the individual or individuals designated by the hospital or ambulatory surgical center pursuant to subsection 1 of this section.

4. If the compliance officer, compliance committee or management official discovers credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to believe that the misconduct may violate criminal, civil or administrative law, then the hospital or ambulatory surgical center shall report the existence of misconduct to the appropriate governmental authority within a reasonable period, but not more than seven days after determining that there is credible evidence of a violation.

5. Reports made to the department of health shall be subject to the provisions of section 197.477, provided that the restrictions of section 197.477 shall not be construed to limit the employee's ability to subpoena from the original source the information reported to the department pursuant to this section.

6. Each written policy shall allow employees making a report who wish to remain anonymous to do so, and shall include safeguards to protect the confidentiality of the employee making the report, the confidentiality of patients and the integrity of data, information and medical records.

7. Each hospital and ambulatory surgical center shall, within forty-eight hours of the receipt of a report, notify the employee that his or her report has been received and is being reviewed.

[8. The enactment of this section shall become effective January 1, 2001.]

354.603. SUFFICIENCY OF HEALTH CARRIER NETWORK, REQUIREMENTS — ACCESS PLAN FILED WITH THE DEPARTMENT, WHEN. — 1. A health carrier shall maintain a network that is sufficient in number and types of providers to assure that all services to enrollees shall be accessible without unreasonable delay. In the case of emergency services, enrollees shall have access twenty-four hours per day, seven days per week. The health carrier's medical director shall be responsible for the sufficiency and supervision of the health carrier's network. Sufficiency shall be determined by the director in accordance with the requirements of this section and by reference to any reasonable criteria, including but not limited to, provider-enrollee ratios by specialty, primary care provider-enrollee ratios, geographic accessibility, reasonable distance accessibility criteria for pharmacy and other services, waiting times for appointments with participating providers, hours of operation, and the volume of technological and specialty services available to serve the needs of enrollees requiring technologically advanced or specialty care.

(1) In any case where the health carrier has an insufficient number or type of participating providers to provide a covered benefit, the health carrier shall ensure that the enrollee obtains the covered benefit at no greater cost than if the benefit was obtained from a participating provider, or shall make other arrangements acceptable to the director.

(2) The health carrier shall establish and maintain adequate arrangements to ensure reasonable proximity of participating providers, including local pharmacists, to the business or personal residence of enrollees. In determining whether a health carrier has complied with this provision, the director shall give due consideration to the relative availability of health care providers in the service area under, especially rural areas, consideration.

(3) A health carrier shall monitor, on an ongoing basis, the ability, clinical capacity, [financial capability] and legal authority of its providers to furnish all contracted benefits to enrollees. **The provisions of this subdivision shall not be construed to require any health care provider to submit copies of such health care provider's income tax returns to a health carrier. A health carrier may require a health care provider to obtain audited financial statements if such health care provider received ten percent or more of the total medical expenditures made by the health carrier.**

(4) A health carrier shall make its entire network available to all enrollees unless a contract holder has agreed in writing to a different or reduced network.

2. [Beginning July 1, 1998,] A health carrier shall file with the director, in a manner and form defined by rule of the department of insurance, an access plan meeting the requirements of sections 354.600 to 354.636 for each of the managed care plans that the **health** carrier offers in this state. The health carrier may request the director to deem sections of the access plan as proprietary or competitive information that shall not be made public. For the purposes of this section, information is proprietary or competitive if revealing the information will cause the health carrier's competitors to obtain valuable business information. The health carrier shall provide such plans, absent any information deemed by the director to be proprietary, to any interested party upon request. The **health** carrier shall prepare an access plan prior to offering a new managed care plan, and shall update an existing access plan whenever it makes any change as defined by the director to an existing managed care plan. The director shall approve or disapprove the access plan, or any subsequent alterations to the access plan, within sixty days of filing. The access plan shall describe or contain at a minimum the following:

- (1) The health carrier's network;
- (2) The health carrier's procedures for making referrals within and outside its network;
- (3) The health carrier's process for monitoring and assuring on an ongoing basis the sufficiency of the network to meet the health care needs of enrollees of the managed care plan;
- (4) The health carrier's methods for assessing the health care needs of enrollees and their satisfaction with services;

(5) The health carrier's method of informing enrollees of the plan's services and features, including but not limited to, the plan's grievance procedures, its process for choosing and changing providers, and its procedures for providing and approving emergency and specialty care;

(6) The health carrier's system for ensuring the coordination and continuity of care for enrollees referred to specialty physicians, for enrollees using ancillary services, including social services and other community resources, and for ensuring appropriate discharge planning;

(7) The health carrier's process for enabling enrollees to change primary care professionals;

(8) The health carrier's proposed plan for providing continuity of care in the event of contract termination between the health carrier and any of its participating providers, in the event of a reduction in service area or in the event of the health carrier's insolvency or other inability to continue operations. The description shall explain how enrollees shall be notified of the contract termination, reduction in service area or the health carrier's insolvency or other modification or cessation of operations, and transferred to other [providers] **health care professionals** in a timely manner; and

(9) Any other information required by the director to determine compliance with the provisions of sections 354.600 to 354.636.

354.606. PROVIDERS NOTIFIED OF SPECIFIC COVERED SERVICES, WHEN — HOLD HARMLESS PROVISION — CESSATION OF OPERATIONS PROCEDURE — SELECTION STANDARDS FOR HEALTH CARE PROFESSIONALS, FILING WITH THE DEPARTMENT. — 1. A health carrier shall establish a mechanism by which the participating provider shall be notified on an ongoing basis of the specific covered health services for which the provider shall be responsible, including any limitations or conditions on services.

2. Every contract between a health carrier and a participating provider shall set forth a hold harmless provision specifying protection for enrollees. This requirement shall be met by including a provision substantially similar to the following:

"Provider agrees that in no event, including but not limited to nonpayment by the health carrier or intermediary, insolvency of the health carrier or intermediary, or breach of this agreement, shall the provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against an enrollee or a person, other than the health carrier or intermediary, acting on behalf of the enrollee for services provided pursuant to this agreement. This agreement shall not prohibit the provider from collecting coinsurance, deductibles or co-payments, as specifically provided in the evidence of coverage, or fees for uncovered services delivered on a fee-for-service basis to enrollees. This agreement shall not prohibit a provider, except for a health care professional who is employed full time on the staff of a health carrier and has agreed to provide service exclusively to that health carrier's enrollees and no others, and an enrollee from agreeing to continue services solely at the expense of the enrollee, as long as the provider has clearly informed the enrollee that the health carrier may not cover or continue to cover a specific service or services. Except as provided herein, this agreement does not prohibit the provider from pursuing any available legal remedy; including, but not limited to, collecting from any insurance carrier providing coverage to a covered person."

3. Every contract between a health carrier and a participating provider shall set forth that in the event of a health carrier's or intermediary's insolvency or other cessation of operations, covered services to enrollees shall continue through the period for which a premium has been paid to the health carrier on behalf of the enrollee or until the enrollee's discharge from an inpatient facility, whichever time is greater.

4. The contract provisions satisfying the requirements of subsections 2 and 3 of this section shall:

- (1) Be construed in favor of the enrollee;
-

(2) Survive the termination of the contract regardless of the reason for termination, including the insolvency of the health carrier; and

(3) Supersede any oral or written contrary agreement between a provider and an enrollee or the representative of an enrollee if the contrary agreement is inconsistent with the hold harmless and continuation of covered services provisions required by subsections 2 and 3 of this section.

5. In no event shall a participating provider collect or attempt to collect from an enrollee any money owed to the provider by the health carrier nor shall a participating provider collect or attempt to collect from an enrollee any money in excess of the coinsurance, co-payments or deductibles. Failure of a health carrier to make timely payment of an amount owed to a provider in accordance with the provider's contract shall constitute an unfair claims settlement practice subject to sections 375.1000 to 375.1018, RSMo.

6. (1) A health carrier shall develop selection standards for participating primary care professionals and each participating health care professional specialty. Such standards shall be in writing and used in determining the selection of health care professionals by the health carrier, its intermediaries and any provider networks with which it contracts. Selection criteria shall not be established in a manner that will:

(a) Allow a health carrier to avoid a high-risk population by excluding a provider because such provider is located in a geographic area that contains a population presenting a risk of higher than average claims, losses or health services utilization; or

(b) Exclude a provider because such provider treats or specializes in treating a population presenting a risk of higher than average claims, losses or health services utilization.

(2) Paragraphs (a) and (b) of subdivision (1) of this subsection shall not be construed to prohibit a health carrier from declining to select a provider who fails to meet the other legitimate selection criteria of the health carrier developed in compliance with sections 354.600 to 354.636.

(3) The provisions of sections 354.600 to 354.636 shall not require a health carrier, its intermediaries or the provider networks with which it contracts, to employ specific providers or types of providers, or to contract with or retain more providers or types of providers than are necessary to maintain an adequate network.

7. A health carrier shall file its selection standards for participating providers with the director. A health carrier shall also file any subsequent changes to its selection standards with the director. The selection standards shall be made available to licensed health care providers.

8. A health carrier shall notify a participating provider of the provider's responsibilities with respect to the health carrier's applicable administrative policies and programs, including but not limited to payment terms, utilization review, quality assessment and improvement programs, credentialing, grievance procedures, data reporting requirements, confidentiality requirements and any applicable federal or state programs.

9. No contract between a health carrier and a provider for the delivery of health care service, entered into or renewed after August 28, 2001, shall require the mandatory use of a hospitalist. For purposes of this subsection, "hospitalist" means a physician who becomes a physician of record at a hospital for a patient of a participating provider and who may return the care of the patient to that participating provider at the end of hospitalization.

[9.] 10. A health carrier shall not offer an inducement under the managed care plan to a provider to provide less than medically necessary services to an enrollee.

[10.] 11. A health carrier shall not prohibit a participating provider from advocating in good faith on behalf of enrollees within the utilization review or grievance processes established by the health carrier or a person contracting with the health carrier.

[11.] 12. A health carrier shall require a provider to make health records available to appropriate state and federal authorities involved in assessing the quality of care but shall not disclose individual identities, or investigating the grievances or complaints of enrollees, and to

comply with the applicable state and federal laws related to the confidentiality of medical or health records.

[12.] **13.** The rights and responsibilities of a provider under a contract between a health carrier and a participating provider shall not be assigned or delegated by the provider without the prior written consent of the health carrier.

[13.] **14.** A health carrier shall be responsible for ensuring that a participating provider furnishes covered benefits to all enrollees without regard to the enrollee's enrollment in the plan as a private purchaser of the plan or as a participant in a publicly financed program of health care service.

[14.] **15.** A health carrier shall notify the participating providers of their obligations, if any, to collect applicable coinsurance, co-payments or deductibles from enrollees pursuant to the evidence of coverage, or of the providers' obligations, if any, to notify enrollees of their personal financial obligations for noncovered services.

[15.] **16.** A health carrier shall not penalize a provider because the provider, in good faith, reports to state or federal authorities any act or practice by the health carrier that may jeopardize patient health or welfare.

[16.] **17.** A health carrier shall establish a mechanism by which a participating provider may determine in a timely manner whether a person is covered by the carrier.

[17.] **18.** A health carrier shall not discriminate between health care professionals when selecting such professionals for enrollment in the network or when referring enrollees for health care services to be provided by such health care professional who is acting within the scope of his professional license.

[18.] **19.** A health carrier shall establish procedures for resolution of administrative, payment or other disputes between providers and the health carrier.

[19.] **20.** A contract between a health carrier and a provider shall not contain definitions or other provisions that conflict with the definitions or provisions contained in the managed care plan or sections 354.600 to 354.636.

376.383. HEALTH CARE CLAIMS FOR REIMBURSEMENT, HOW PAID, WHEN — DEFINITIONS — INTEREST ON UNPAID CLAIMS — EFFECTIVE, WHEN — PENALTIES FOR UNPAID CLAIMS, WHEN — FRAUDULENT CLAIMS, NOTIFICATION TO THE DEPARTMENT, PROCEDURE — REQUESTS FOR ADDITIONAL INFORMATION, CONTENTS. — 1. For purposes of this section and section 376.384, the following terms shall mean:

(1) "Claimant", any individual, corporation, association, partnership or other legal entity asserting a right to payment arising out of a contract or a contingency or loss covered under a health benefit plan as defined in section 376.1350;

(2) "Deny" or "denial", when the health carrier refuses to reimburse all or part of the claim;

(3) "Health carrier", health carrier as defined in section 376.1350, except that health carrier shall not include a workers' compensation carrier providing benefits to an employee pursuant to chapter 287, RSMo;

(4) "Health care provider", health care provider as defined in section 376.1350;

(5) "Health care services" health care services as defined in section 376.1350;

(6) "Processing days", number of days the health carrier has the claim in its possession. Processing days shall not include days in which the health carrier is waiting for a response to a request for additional information;

(7) "Request for additional information", when the health carrier requests information from the claimant to determine if all or part of the claim will be reimbursed;

(8) "Suspends the claim", giving notice to the claimant specifying the reason the claim is not yet paid, including but not limited to grounds as listed in the contract between the claimant and the health carrier; and

(9) "Third party contractor", a third party contracted with the health carrier to receive or process claims for reimbursement of health care services.

2. Within ten working days after receipt of a claim by a health carrier or a third party contractor, a health carrier shall:

- (1) Send an acknowledgment of the date of receipt; or
- (2) Send notice of the status of the claim that includes a request for additional information.

If a health carrier pays the claim, subdivisions (1) and (2) shall not apply.

3. Within fifteen days after receipt of additional information by a health carrier or a third party contractor, a health carrier shall pay the claim or any undisputed part of the claim in accordance with this section or send a notice of receipt and status of the claim:

- (1) That denies all or part of the claim and specifies each reason for denial; or
- (2) That makes a final request for additional information.

4. Within fifteen days after the day on which the health carrier or a third party contractor receives the additional requested information in response to a final request for information, it shall pay the claim or any undisputed part of the claim or deny or suspend the claim.

5. If the health carrier has not paid the claimant on or before the forty-fifth day from the date of receipt of the claim, the health carrier shall pay the claimant one percent interest per month. The interest shall be calculated based upon the unpaid balance of the claim. The interest paid pursuant to this subsection shall be included in any late reimbursement without the necessity for the person that filed the original claim to make an additional claim for that interest. A health carrier may combine interest payments and make payment once the aggregate amount reaches five dollars.

6. If a health carrier fails to pay, deny or suspend the claim within forty processing days, and has received, on or after the fortieth day, notice from the health care provider that such claim has not been paid, denied or suspended, the health carrier shall, in addition to monthly interest due, pay to the claimant per day an amount of fifty percent of the claim but not to exceed twenty dollars for failure to pay all or part of a claim or interest due thereon or deny or suspend as required by this section. Such penalty shall not accrue for more than thirty days unless the claimant provides a second written or electronic notice on or after the thirty days to the health carrier that the claim remains unpaid and that penalties are claimed to be due pursuant to this section. Penalties shall cease if the health carrier pays, denies or suspends the claim. Said penalty shall also cease to accrue on the day after a petition is filed in a court of competent jurisdiction to recover payment of said claim. Upon a finding by a court of competent jurisdiction that the health carrier failed to pay a claim, interest or penalty without reasonable cause, the court shall enter judgment for reasonable attorney fees for services necessary for recovery. Upon a finding that a provider filed suit without reasonable grounds to recover a claim, the court shall award the health carrier reasonable attorney fees necessary to the defense.

7. The department of insurance shall monitor suspensions and determine whether the health carrier acted reasonably.

8. If a health carrier or third party contractor has reasonable grounds to believe that a fraudulent claim is being made, the health carrier or third party contractor shall notify the department of insurance of the fraudulent claim pursuant to sections 375.991 to 375.994.

9. Denial of a claim shall be communicated to the claimant and shall include the specific reason why the claim was denied.

10. Requests for additional information shall specify what additional information is necessary to process the claim for payment. Information requested shall be reasonable and pertain to the health carrier's determination of liability. The health carrier shall

acknowledge receipt of the requested additional information to the claimant within five working days or pay the claim.

376.384. REIMBURSEMENT OF CLAIMS, DUTIES OF HEALTH CARRIERS — CLAIMS SUBMITTED IN ELECTRONIC FORMAT, WHEN — COMPLIANCE MONITORED BY DEPARTMENT — COMPLAINT PROCEDURES DEVELOPED — STANDARD MEDICAL CODE SETS REQUIRED, WHEN — RULEMAKING AUTHORITY. — 1. All health carriers shall:

(1) Permit nonparticipating health care providers to file a claim for reimbursement for a health care service provided in this state as defined in section 376.1350 for a period of up to one year from the date of service;

(2) Permit participating health care providers to file a claim for reimbursement for a health care service provided in this state for a period of up to six months from the date of service, unless the contract between the health carrier and health care provider specifies a different standard;

(3) Not request a refund or offset against a claim more than twelve months after a health carrier has paid a claim except in cases of fraud or misrepresentation by the health care provider;

(4) Issue within one working day a confirmation of receipt of an electronically filed claim.

2. On or after January 1, 2003, all claims for reimbursement for a health care service provided in this shall be submitted in an electronic format consistent with federal administrative simplification standards adopted pursuant to the Health Insurance Portability and Accountability Act of 1996. Any claim submitted by a health care provider after January 1, 2003, in a non- electronic format shall not be subject to the provisions of section 376.383. Any health carrier shall provide readily accessible electronic filing after this date to health care providers.

3. On or after January 1, 2002, the director of the department of insurance shall monitor health carrier compliance with the provisions of sections 376.383 and 376.384. Examinations, which may be based upon statistical samplings, to determine compliance may be conducted by the department or the director may contract with a qualified private entity. Compliance shall be defined as properly processing and paying ninety-five percent of all claims received in a given calendar year in accordance with the provisions of sections 376.383 and 376.384. The director may assess an administrative penalty in addition to the penalties outlined in section 376.383 of up to twenty-five dollars per claim for the percentage of claims found to be in noncompliance, but not to exceed an annual aggregate penalty of two hundred fifty thousand dollars, for any health carrier deemed to be not in compliance with sections 376.383 and 376.384. Any penalty assessed pursuant to this subsection shall be assessed in addition to penalties provided for pursuant to sections 375.1012 and 375.942.

4. If the director finds that health carriers are failing to make interest payments to health care professionals authorized by section 376.383, the director is authorized to order such health carriers to remit such interest payments. The director is also authorized to assess a monetary penalty, payable to the state of Missouri, in a sum not to exceed twenty-five percent of the unpaid interest payment against health carriers.

5. A health carrier may request a waiver of the requirements of sections 376.383 and 376.384 if the basis for the request is an act of God or other good cause as determined by the director.

6. The director shall develop a method by which health care providers may submit complaints to the department identifying violations of sections 376.383 and 376.384 by a health carrier. The director shall consider such complaints when determining whether to examine a health carrier's compliance. Prior to filing a complaint with the department, health care providers who believe that a health carrier has not paid a claim in accordance

with section 376.383 and this section shall first contact the health carrier to determine the status of the claim to ensure that sufficient documentation supporting the claim has been provided and to determine whether the claim is considered to be complete. Complaints to the department regarding the payment of claims by a health carrier should contain information such as:

- (1) The health care provider's name, address, and day-time phone number;
- (2) The health carrier's name;
- (3) The dates of service and the dates the claims were filed with the health carrier;
- (4) Relevant correspondence between the health care provider and the health carrier, including requests from the health carrier for additional information; and
- (5) Additional information which the health care provider believes would be of assistance in the department's review.

7. On or after January 1, 2003, all claims submitted electronically for reimbursement for a health care service provided in this state shall be submitted in a uniform format utilizing standard medical code sets. The uniform format and the standard medical code sets shall be promulgated by the department of insurance through rules consistent with but no more stringent than the federal administrative simplification standards adopted pursuant to the Health Insurance Portability and Accountability Act of 1996.

8. The department shall have authority to promulgate rules for the implementation of section 376.383 and this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, sections 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

376.406. NEWBORN CHILD TO BE COVERED UNDER HEALTH POLICIES, EXTENT OF COVERAGE — NOTIFICATION OF BIRTH, WHEN, EFFECT OF — DEFINITIONS. — 1. All [individual and group health insurance policies providing coverage on an expense incurred basis, individual and group service or indemnity type contracts issued by a nonprofit corporation, and all self-insured group health benefit plans, of any type or description,] **health benefit plans** which provide coverage for a family member of [the insured or subscriber] **an enrollee** shall, as to such family member's coverage, also provide that the health [insurance] benefits applicable for children shall be payable with respect to a newly born child of the [insured or subscriber] **enrollee** from the moment of birth.

2. The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

3. If payment of a specific premium or subscription fee is required to provide coverage for a child, the [policy or contract] **health benefit plan** may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the [insurer or nonprofit service or indemnity corporation] **health carrier** within thirty-one days after the date of birth in order to have the coverage continue beyond such thirty-one day period. **If an application or other form of enrollment is required in order to continue coverage beyond the thirty- one-day period after the date of birth and the enrollee has notified the health carrier of the birth, either orally or in writing, the health carrier shall, upon notification, provide the enrollee with all forms and instructions necessary to enroll the newly born child and shall allow the enrollee an additional ten days from the date the forms and instructions are provided in which to enroll the newly born child.**

4. The requirements of this section shall apply to all [insurance policies and subscriber contracts] **health benefit plans** delivered or issued for delivery in this state [more than one hundred twenty days after August 13, 1974] **on or after August 28, 2001.**

5. For the purposes of this section, any review, renewal, extension, or continuation of any [plan, policy, or contract] **health benefit plan** or of any of the terms, premiums, or subscriptions of the [plan, policy, or contract] **health benefit plan** shall constitute a new delivery or issuance for delivery of the [plan, policy or contract] **health benefit plan.**

6. **As used in this section, the terms "health benefit plan", "health carrier", and "enrollee" shall have the same meaning as defined in section 376.1350.**

[376.383. HEALTH CARE CLAIMS FOR REIMBURSEMENT, HOW PAID, WHEN — DEFINITIONS — INTEREST ON UNPAID CLAIMS — EFFECTIVE, WHEN — PENALTIES FOR UNPAID CLAIMS, WHEN — FRAUDULENT CLAIMS, NOTIFICATION TO THE DEPARTMENT, PROCEDURE — REQUESTS FOR ADDITIONAL INFORMATION, CONTENTS. — 1. To the extent consistent with the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001, et seq., this section shall apply to any health insurer as defined in section 376.806, any nonprofit health service plan and any health maintenance organization.

2. Within forty-five days after receipt of a claim for reimbursement from a person entitled to reimbursement, a health insurer, nonprofit health service plan or health maintenance organization shall pay the claim in accordance with this section or send a notice of receipt and status of the claim that states:

(1) That the insurer, nonprofit health service plan or health maintenance organization refuses to reimburse all or part of the claim and the reason for the refusal; or

(2) That additional information is necessary to determine if all or part of the claim will be reimbursed and what specific additional information is necessary.

3. If an insurer, nonprofit health service plan or health maintenance organization fails to comply with subsection 2 of this section, the insurer, nonprofit health service plan or health maintenance organization shall pay interest on the amount of the claim that remains unpaid forty-five days after the claim is filed at the monthly rate of one percent. The interest paid pursuant to this subsection shall be included in any late reimbursement without the necessity for the person that filed the original claim to make an additional claim for that interest.

4. Within ten days after the day on which all additional information is received by an insurer, nonprofit health service plan or health maintenance organization, it shall pay the claim in accordance with this section or send a written notice that:

(1) States refusal to reimburse the claim or any part of the claim; and

(2) Specifies each reason for denial. An insurer, nonprofit health service plan or health maintenance organization that fails to comply with this subsection shall pay interest on any amount of the claim that remains unpaid at the monthly rate of one percent.

5. A provider who is paid interest under this section shall pay the proportionate amount of said interest to the enrollee or insured to the extent and for the time period that the enrollee or insured had paid for the services and for which reimbursement was due to the insured or enrollee.

6. This section shall become effective April 1, 1999.]

SECTION 1. APPLICATION FOR MEDICAL ASSISTANCE, APPROVAL OR DENIAL, WHEN — MEDICAID PAYMENTS TO LONG-TERM CARE FACILITIES. WHEN. — 1. A completed application for medical assistance for services described in section 208.152 shall be approved or denied within thirty days from submission to the division of family services or its successor.

2. The division of medical services shall remit to a licensed nursing home operator the medicaid payment for a newly admitted medicaid resident in a licensed long term care facility within forty-five days of the resident's date of admission.

SECTION 2. DENIAL OF CLAIMS, APPLICANT OR POLICYHOLDER NOT REQUIRED TO DISCLOSE TO INSURER. — No insurer or its agent or representative shall require any applicant or policyholder to divulge if any insurer has denied any claim of that applicant or policyholder.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of section 376.383 and the enactment of section 376.384 shall become effective January 1, 2002.

Approved July 6, 2001

HB 361 [SCS HB 361]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes conveyance of certain state water rights to Clarence Cannon Wholesale Water Commission.

AN ACT to authorize the conveyance of certain state property to the Clarence Cannon Wholesale Water Commission, with an emergency clause.

SECTION

1. Conveyance by governor of rights in the water and water storage of Mark Twain Lake to Clarence Cannon Wholesale Water Commission.
2. Description of conveyance.
3. Additional rights to water and water storage.
4. Consideration for transfer of rights.
5. Deposit of certain moneys in the Missouri water development fund.
6. Attorney general to approve form of the instrument of conveyance.
 - A. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE BY GOVERNOR OF RIGHTS IN THE WATER AND WATER STORAGE OF MARK TWAIN LAKE TO CLARENCE CANNON WHOLESALE WATER COMMISSION. — Notwithstanding any other laws to the contrary, the governor is hereby authorized and empowered to bargain, transfer, and convey to the Clarence Cannon Wholesale Water Commission rights in the water and water storage of Mark Twain Lake acquired by the state of Missouri by contract with the United States of America dated March 10, 1988.

SECTION 2. DESCRIPTION OF CONVEYANCE. — An agreement to transfer rights to water and water storage shall immediately convey and transfer one million nine hundred thousand gallons per day of water and its equivalent acre feet of water storage to the Clarence Cannon Wholesale Water Commission in accordance with the contract dated March 10, 1988, by and between the United States of America, Clarence Cannon Wholesale Water Commission, and the state of Missouri.

SECTION 3. ADDITIONAL RIGHTS TO WATER AND WATER STORAGE. — The authorization set forth in this section includes the power to convey and transfer rights to water and water storage in an additional amount of up to five million gallons per day and its equivalent acre feet of storage, that portion of the rights to Mark Twain Lake having

been conveyed to the state of Missouri by the United States of America by contract dated March 10, 1988.

SECTION 4. CONSIDERATION FOR TRANSFER OF RIGHTS. — Consideration for the transfer of water rights and the rights to water storage in Mark Twain Lake shall require the Clarence Cannon Wholesale Water Commission to assume the transferred portion of all financial obligations of the state of Missouri to the United States of America as indicated in contract dated March 10, 1988, including all payments for principal and interest due and owed from the date of transfer to Clarence Cannon Wholesale Water Commission forward and into the future until such obligations to the United States are fully paid for that water and water storage acquired by the state of Missouri in Mark Twain Lake.

SECTION 5. DEPOSIT OF CERTAIN MONEYS IN THE MISSOURI WATER DEVELOPMENT FUND. — If the state receives moneys from Clarence Cannon Wholesale Water Commission pursuant to an agreement under this act, such moneys may be deposited in the "Missouri Water Development Fund", created by section 256.290, RSMo.

SECTION 6. ATTORNEY GENERAL TO APPROVE FORM OF THE INSTRUMENT OF CONVEYANCE. — The attorney general shall approve as to form the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because of the need to provide water for residential, commercial, and industrial users in northeast Missouri, sections 1 to 6 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and sections 1 to 6 of this act shall be in full force and effect upon their passage and approval.

Approved June 7, 2001

HB 381 [SS SCS HS HB 381]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates felony for sale or distribution of gray market cigarettes.

AN ACT to repeal sections 149.015, 407.927, 407.929 and 407.931, RSMo 2000, relating to the sale of tobacco products to minors, and to enact in lieu thereof fourteen new sections relating to the same subject, with penalty provisions and an effective date for certain sections.

SECTION

- A. Enacting clause.
 - 149.015. Rate of tax — how stamped — samples, how taxed — tax impact to be on consumer — fair share school fund, distribution.
 - 149.200. Illegal activities related to cigarettes and cigarette labeling — penalty.
 - 149.203. Revocation or suspension of a wholesaler's license, when — civil penalty, when — cigarettes deemed contraband, when.
 - 149.206. Violation deemed unlawful trade practice.
 - 149.212. Director to enforce provisions of sections 149.200 to 149.215 — attorney general's concurrent power — injunctive relief available, when.
 - 149.215. Severability clause.
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- 407.924. Division of liquor control to enforce underage tobacco sales — annual report submitted.
 - 407.926. No tobacco sales to minors — penalties.
 - 407.927. Required sign stating violation of state law to sell tobacco to minors under age 18 — display of sign required on tobacco displays and vending machines.
 - 407.928. Restrictions on sales of individual packs of cigarettes.
 - 407.929. Proof of age required, when — defense to action for violation is reasonable reliance on proof — liability.
 - 407.931. Unlawful to sell or distribute tobacco products to minors — vending machine requirements — what persons are liable — owners exempt, when — appeal to administrative hearing commission, when.
 - 407.933. Minors employed by division of liquor control may purchase cigarettes for enforcement purposes — misrepresentation of age, penalty.
 - 407.934. Sales tax license required to sell tobacco products — division of liquor control to have inspection authority — limitations on use of minors for enforcement purposes.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 149.015, 407.927, 407.929 and 407.931, RSMo 2000, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 149.015, 149.200, 149.203, 149.206, 149.212, 149.215, 407.924, 407.926, 407.927, 407.928, 407.929, 407.931, 407.933 and 407.934, to read as follows:

149.015. RATE OF TAX — HOW STAMPED — SAMPLES, HOW TAXED — TAX IMPACT TO BE ON CONSUMER — FAIR SHARE SCHOOL FUND, DISTRIBUTION. — 1. A tax shall be levied upon the sale of cigarettes at an amount equal to eight and one-half mills per cigarette, until such time as the general assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement allowance to the health initiatives fund, then the tax shall be six and one-half mills per cigarette beginning July first of the fiscal year immediately after such appropriation. As used in this section, "net federal reimbursement allowance" shall mean that amount of the federal reimbursement allowance in excess of the amount of state matching funds necessary for the state to make payments required by subsection 1 of section 208.471, RSMo, or, if the payments exceed the amount so required, the actual payments made for the purposes specified in subsection 1 of section 208.471, RSMo.

2. The tax shall be evidenced by stamps which shall be furnished by and purchased from the director or by an impression of the tax by the use of a metering machine when authorized by the director as provided in this chapter, and the stamps or impression shall be securely affixed to one end of each package in which cigarettes are contained. All cigarettes must be stamped before being sold in this state.

3. Cigarette tax stamps shall be purchased only from the director. All stamps shall be purchased by the director in proper denominations, shall contain such appropriate wording as the director may prescribe, and shall be of such design, character, color combinations, color changes, sizes and material as the director may, by [his] rules and regulations, determine to afford the greatest security to the state. It shall be the duty of the director to manufacture or contract for revenue stamps required by this chapter; provided that if the stamps are contracted for, the manufacturer thereof shall be within the jurisdiction of the criminal and civil courts of this state, unless the stamps cannot be obtained in this state at a fair price or of acceptable quality. If stamps are manufactured outside of the state, the director shall take any precautions which he deems necessary to safeguard the state against forgery and misdelivery of any stamps. The director may require of the manufacturer from whom stamps are purchased a bond in an amount to be determined by him commensurate with the monetary value of the stamps, containing such conditions as he may deem necessary in order to protect the state against loss.

4. It shall be the intent of this chapter that the impact of the tax levied hereunder be absorbed by the consumer or user and when the tax is paid by any other person, the payment shall be considered as an advance payment and shall thereafter be added to the price of the cigarettes and recovered from the ultimate consumer or user with the person first selling the cigarettes acting as an agent of the state for the payment and collection of the tax to the state,

except that in furtherance of the intent of this chapter no refund of any tax collected and remitted by a retailer upon gross receipts from a sale of cigarettes subject to tax [under] **pursuant to** this chapter shall be claimed [under] **pursuant to** chapter 144, RSMo, for any amount illegally or erroneously overcharged or overcollected as a result of imposition of sales tax by the retailer upon amounts representing the tax imposed [under] **pursuant to** this chapter **and any such tax shall either be refunded to the person who paid such tax or paid to the director. The director may recoup from any retailer any tax illegally or erroneously overcharged or overcollected unless such tax has been refunded to the person who paid such tax.**

5. In making sales of cigarettes in the state, a wholesaler shall keep a record of the amount of tax on his gross sales. The tax shall be evidenced by appropriate stamps attached to each package of cigarettes sold. **Notwithstanding any other law to the contrary, no tax stamp need be attached to a package of cigarettes transported in the state between wholesalers or distributors unless and until such package is sold to a retailer or consumer.**

6. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

7. The revenue generated by the additional two mills tax imposed effective August 13, 1982, less any three percent reduction allowed [under] **pursuant to** the provisions of section 149.021, shall be placed in a separate fund entitled "The Fair Share Fund". Such moneys in the fair share fund shall be distributed to the schools in this state on an average daily attendance basis, except as provided in section 163.031, RSMo.

8. The revenue generated by the additional two mills tax imposed effective October 1, 1993, less any three percent reduction allowed [under] **pursuant to** the provisions of section 149.021, shall be deposited in the health initiatives fund created in section 191.831, RSMo. When the general assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement allowance to the health initiatives fund, this subsection shall expire. The additional two mills tax levied [under] **pursuant to** this section shall not apply to an amount of stamped cigarettes in the possession of licensed wholesalers on October 1, 1993, up to thirty-five percent of the total cigarette sales made by such licensed wholesaler during the six months immediately preceding October 1, 1993.

149.200. ILLEGAL ACTIVITIES RELATED TO CIGARETTES AND CIGARETTE LABELING — PENALTY. — 1. It is unlawful for any person to:

(1) Sell or distribute in this state; to acquire, hold, own, possess or transport for sale or distribution in this state; or to import, or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and implementing regulations, including but not limited to the filing of ingredients lists pursuant to section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a); the permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333); the rotation of label statements pursuant to section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335(c)); restrictions on the importation, transfer and sale of previously exported tobacco products pursuant to Section 9302 of Public Law 105-33, the Balanced Budget Act of 1997, as amended; requirements of Title IV of Public Law 106-476, the Imported Cigarette Compliance Act of 2000; or

(2) Alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(a) Any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but

not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise warning statement in the precise format specified in section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333).

2. It shall be unlawful for any person to affix any tax stamp or meter impression required to this chapter to the package of any cigarettes that does not comply with the requirements of subdivision (1) of subsection 1 of this section or that is altered in violation of subdivision (2) of subsection 1 of this section.

3. This section shall not apply to cigarettes allowed to be imported or brought into the United States for personal use, or to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; provided, however, that this act shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

4. Any person who violates this section, whether acting knowingly or recklessly, is guilty of a class D felony.

5. As used in this section, "package" means a pack, box, carton or container of any kind in which cigarettes are offered for sale, sold or otherwise distributed to consumers.

149.203. REVOCATION OR SUSPENSION OF A WHOLESALER'S LICENSE, WHEN — CIVIL PENALTY, WHEN — CIGARETTES DEEMED CONTRABAND, WHEN. — 1. The director may revoke or suspend the license or licenses of any wholesaler pursuant to the procedures set forth in section 149.035 upon finding a violation of section 149.200, or any implementing rule promulgated by the director pursuant to this chapter. In addition, the director may impose on any person a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes involved or five thousand dollars, upon finding a violation by such person of sections 149.200 to 149.215, or any implementing rule promulgated by the director pursuant to this chapter.

2. Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of sections 149.200 to 149.215 or 196.1000 to 196.1003 shall be deemed contraband pursuant to section 149.055 and are subject to seizure and forfeiture as provided therein. Any cigarettes shall be deemed contraband whether the violation of sections 149.200 to 149.215 is knowing or otherwise.

149.206. VIOLATION DEEMED UNLAWFUL TRADE PRACTICE. — A violation of sections 149.200 to 149.215 shall constitute an unlawful trade practice as provided in section 407.020, RSMo, and in addition to any remedies or penalties set forth in sections 149.200 to 149.215, shall be subject to any remedies or penalties available for a violation of that section.

149.212. DIRECTOR TO ENFORCE PROVISIONS OF SECTIONS 149.200 TO 149.215 — ATTORNEY GENERAL'S CONCURRENT POWER — INJUNCTIVE RELIEF AVAILABLE, WHEN. — Sections 149.200 to 149.215 shall be enforced by the director provided, that at the request of the director or the director's duly authorized agent, the state highway patrol and all local police authorities shall enforce the provisions of sections 149.200 to 149.215. The attorney general has concurrent power with the prosecuting attorneys of the states to enforce the provisions of sections 149.200 to 149.215. Any person who sells, distributes, or manufactures cigarettes and sustains direct economic or commercial injury as a result of a violation of sections 149.200 to 149.215 may bring an action in good faith for appropriate injunctive relief.

149.215. SEVERABILITY CLAUSE. — If any provision of sections 149.200 to 149.212 is held invalid, the remainder of such sections shall not be affected.

407.924. DIVISION OF LIQUOR CONTROL TO ENFORCE UNDERAGE TOBACCO SALES — ANNUAL REPORT SUBMITTED. — 1. The division of liquor control within the department of public safety shall implement and enforce the provisions of sections 407.925 to 407.934.

2. Beginning January 1, 2003, the division of liquor control shall submit an annual report to the general assembly on the effectiveness of sections 407.925 to 407.934 in reducing tobacco possession by minors and the enforcement activities by the division for violations of sections 407.925 to 407.934.

407.926. NO TOBACCO SALES TO MINORS — PENALTIES. — 1. Any person or entity who sells tobacco products shall deny the sale of such tobacco products to any person who is less than eighteen years of age.

2. Any person or entity who sells or distributes tobacco products by mail or through the Internet in this state in violation of subsection 1 of this section shall be assessed a fine of two hundred and fifty dollars for the first violation and five hundred dollars for each subsequent violation.

407.927. REQUIRED SIGN STATING VIOLATION OF STATE LAW TO SELL TOBACCO TO MINORS UNDER AGE 18 — DISPLAY OF SIGN REQUIRED ON TOBACCO DISPLAYS AND VENDING MACHINES. — The owner of an establishment at which tobacco products or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products are sold and on every vending machine where tobacco products are purchased a sign that shall:

(1) Contain in red lettering at least one-half inch high on a white background the following: "It is a violation of state law for cigarettes or other tobacco products to be sold **or otherwise provided** to any person under the age of eighteen **or for such person to purchase, attempt to purchase or possess cigarettes or other tobacco products**"; and

(2) Include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal diameter of a surrounding red circle, and the words "Under 18".

407.928. RESTRICTIONS ON SALES OF INDIVIDUAL PACKS OF CIGARETTES. — No person or entity shall sell individual packs of cigarettes or smokeless tobacco products unless such packs satisfy one of the following conditions prior to the time of sale:

(1) It is sold through a vending machine; or

(2) It is displayed behind the check-out counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the checkout counter.

407.929. PROOF OF AGE REQUIRED, WHEN — DEFENSE TO ACTION FOR VIOLATION IS REASONABLE RELIANCE ON PROOF — LIABILITY. — 1. A person **or entity** selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen.

2. The operator's or chauffeur's license issued pursuant to the provisions of section 302.177, RSMo, or the operator's or chauffeur's license issued pursuant to the laws of any state or possession of the United States to residents of those states or possessions, or an identification card as provided for in section 302.181, RSMo, or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the division of liquor control or any owner or employee of an establishment that sells tobacco, for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least eighteen

years of age when such person desires to purchase or possess tobacco products procured from a registrant. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not more than one year, or by both such fine and imprisonment.

4. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of subsections 1, 2 and 3 of section 407.931. No person shall be liable for more than one violation of subsections 2 and 3 of section 407.931 on any single day.

407.931. UNLAWFUL TO SELL OR DISTRIBUTE TOBACCO PRODUCTS TO MINORS — VENDING MACHINE REQUIREMENTS — WHAT PERSONS ARE LIABLE — OWNERS EXEMPT, WHEN — APPEAL TO ADMINISTRATIVE HEARING COMMISSION, WHEN. — 1. It shall be unlawful for any person to [engage in tobacco product distribution] **sell, provide or distribute tobacco products** to persons under eighteen years of age.

2. By January 1, 2002, all vending machines that dispense tobacco products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen years of age from purchasing any tobacco product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this subsection shall be subject to the penalties contained in subsection 5 of this section. A determination of noncompliance may be made by a local law enforcement agency or the division of liquor control. Nothing in this section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

3. No person or entity shall **sell, provide or distribute** any tobacco product or [distribute any tobacco product or] rolling papers to any minor, **or sell any individual cigarettes to any person in this state.** This subsection shall not apply to the distribution by family members on property that is not open to the public.

[3.] 4. Any person, **including, but not limited to, a sales clerk, owner or operator** who violates subsection 1 [or], 2 **or 3** of this section or section 407.927 shall be [fined] **penalized as follows:**

- (1) For the first offense, twenty-five dollars;
- (2) For the second offense, one hundred dollars;
- (3) For a third and subsequent offense, two hundred fifty dollars.

5. Any owner of the establishment where tobacco products are available for sale who violates subsection 3 of this section, in addition to the penalties established in subsection 4 of this section, shall be penalized in the following manner:

- (1) For the first violation per location within two years, a reprimand shall be issued by the division of liquor control;

(2) For the second violation per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products for a twenty-four hour period;

(3) For the third violation per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products for a forty-eight hour period;

(4) For the fourth and any subsequent violations per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products for a five-day period.

6. Any owner of the establishment where tobacco products are available for sale who violates subsection 3 of this section shall not be penalized pursuant to this section if such person documents the following:

(1) An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the state and federal regulations regarding tobacco sales to minors. Such training program must be attended by all employees who sell tobacco products to the general public;

(2) A signed statement by the employee stating that the employee has been trained and understands the state laws and federal regulations regarding the sale of tobacco to minors; and

(3) Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety minutes in length, established by the division of liquor control.

7. The exemption in subsection 6 of this section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products are available for sale if:

(1) Four or more violations per location of subsection 3 of this section occur within a one-year period; or

(2) Such person knowingly violates or knowingly allows his or her employees to violate subsection 3 of this section.

[4.] 8. If a sale is made by an employee of the owner of an establishment in violation of sections 407.925 to [407.932,] **407.934**, the employee shall be guilty of an offense established in subsections 1, 2 and 3 of this section. If a vending machine is in violation of section 407.927, the owner of the establishment shall be guilty of an offense established in subsections [2 and 3] **3 and 4** of this section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in subsections [2 and 3] **3 and 4** of this section.

9. A person cited for selling, providing or distributing any tobacco product to any individual less than eighteen years of age in violation of subsection 1, 2 or 3 of this section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that:

(1) Such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen years of age or older.

10. Any person adversely affected by this section may file an appeal with the administrative hearing commission which shall be adjudicated pursuant to the procedures established in chapter 621, RSMo.

407.933. MINORS EMPLOYED BY DIVISION OF LIQUOR CONTROL MAY PURCHASE CIGARETTES FOR ENFORCEMENT PURPOSES — MISREPRESENTATION OF AGE, PENALTY. —

1. No person less than eighteen years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products unless such person is an employee of a seller

of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment, or an employee of the division of liquor control for enforcement purposes pursuant to subsection 5 of section 407.934.

2. Any person less than eighteen years of age shall not misrepresent his or her age to purchase cigarettes or tobacco products.

3. Any person who violates the provisions of this section shall be penalized as follows:

(1) For the first violation, the person is guilty of an infraction and shall have any cigarettes or tobacco products confiscated;

(2) For a second violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes or tobacco products confiscated and shall complete a tobacco education or smoking cessation program, if available.

407.934. SALES TAX LICENSE REQUIRED TO SELL TOBACCO PRODUCTS — DIVISION OF LIQUOR CONTROL TO HAVE INSPECTION AUTHORITY — LIMITATIONS ON USE OF MINORS FOR ENFORCEMENT PURPOSES. — 1. No person shall sell cigarettes or tobacco products unless the person has a retail sales tax license.

2. Beginning January 1, 2002, the department of revenue shall permit persons to designate through the Internet or by including a place on all sales tax license applications, for the applicant to designate himself or herself as a seller of tobacco products and to provide a list of all locations where the applicant sells such products.

3. On or before July first of each year, the department of revenue shall make available to the division of liquor control and the department of mental health a complete list of every establishment which sells cigarettes and other tobacco products in this state.

4. The division of liquor control shall have the authority to inspect stores and tobacco outlets for compliance with all laws related to access of tobacco products to minors. The division may employ a person seventeen years of age, with parental consent, to attempt to purchase tobacco for the purpose of inspection or enforcement of tobacco laws.

5. The supervisor of the division of liquor control shall not use minors to enforce the provisions of this chapter unless the supervisor promulgates rules that establish standards for the use of minors. The supervisor shall establish mandatory guidelines for the use of minors in investigations by a state, county, municipal or other local law enforcement authority which shall be followed by such authority and which shall, at a minimum, provide for the following:

(1) The minor shall be seventeen years of age;

(2) The minor shall have a youthful appearance, and the minor, if a male, shall not have facial hair or a receding hairline and if a female, shall not wear excessive makeup or excessive jewelry;

(3) The state, county, municipal or other local law enforcement agency shall obtain the consent of the minor's parent or legal guardian before the use of such minor on a form approved by the supervisor;

(4) The state, county, municipal or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;

(5) Any attempt by such minor to purchase tobacco products shall be videotaped or audiotaped with equipment sufficient to record all statements made by the minor and the seller of the tobacco product;

(6) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the tobacco product;

(7) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age;

(8) The minor shall not lie to the seller of the tobacco product to induce a sale of tobacco products;

(9) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(10) The state, county, municipal or other local law enforcement agency shall, within forty-eight hours, contact or take all reasonable steps to contact the owner or manager of the establishment if a violation occurs;

(11) The state, county, municipal or other local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal or other local law enforcement agency for a period of at least one year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

(a) The signed consent form of the minor's parent or legal guardian;

(b) A Polaroid photograph of the minor;

(c) A photocopy of the minor's valid identification, showing the minor's correct date of birth;

(d) An information sheet completed by the minor on a form approved by the supervisor; and

(e) The name of each establishment visited by the minor, and the date and time of each visit.

6. If the state, county, municipal or other local law enforcement authority uses minors in investigations or in enforcing or determining violations of this chapter or any local ordinance and does not comply with the mandatory guidelines established by the supervisor of liquor control in subsection 5 of this section, the supervisor of liquor control shall not take any disciplinary action against the establishment or seller pursuant to this chapter based on an alleged violation discovered when using a minor and shall not cooperate in any way with the state, county, municipal or other local law enforcement authority in prosecuting any alleged violation discovered when using a minor.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of section 149.015 and the enactment of sections 149.200, 149.203, 149.206, 149.209, 149.212 and 149.215 shall become effective February 1, 2002.

Approved July 13, 2001

HB 408 [HB 408]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes conveyances of unused graves in public cemeteries back to the county or municipality in certain cases.

AN ACT to repeal section 214.030, RSMo 2000, relating to grave lot conveyances and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

214.030. Cemetery lots, conveyed by deed.

214.035. Conveyance of cemetery property to political subdivision, when — notice of transfer.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 214.030, RSMo 2000, is repealed and two new sections enacted in lieu thereof, to be known as sections 214.030 and 214.035, to read as follows:

214.030. CEMETERY LOTS, CONVEYED BY DEED. — The cemetery lots owned by such county, city, town or village shall be conveyed by deed signed by the mayor or **presiding commissioner** of said county, city, town or village, duly attested by the [city] clerk of such county, city, town or village, or other officer performing the duties of clerk, and shall vest in the purchaser, his or her heirs and assigns, a right in fee simple to such lot for the sole purpose of interment [under] **pursuant to** the regulations of the council or commission, **except that such fee simple right may be revested in the county, city, town or village pursuant to section 214.035.**

214.035. CONVEYANCE OF CEMETERY PROPERTY TO POLITICAL SUBDIVISION, WHEN — NOTICE OF TRANSFER. — **1.** For purposes of this section, the term "lot owner" means the purchaser of the cemetery lot or such purchaser's heirs, administrators, trustees, legatees, devisees, or assigns.

2. Whenever a county, city, town or village has acquired real estate for the purpose of maintaining a cemetery or has acquired a cemetery from a cemetery association, and such county, city, town or village or its predecessor in title has conveyed any platted lot or designated piece of ground within the area of such cemetery, and the governing body of such county, city, town or village is the governing body of such cemetery pursuant to section 214.010, the title to any conveyed platted lots or designated pieces of ground, other than ground in which dead human remains are actually buried and all ground within two feet thereof, may be revested in the county, city, town or village in the following manner and subject to the following conditions:

(1) No interment shall have been made in the lot and the title to such lot shall have been vested in the present owner for a period of at least fifty years prior to the commencement of any proceedings pursuant to this section;

(2) If the lot owner of any cemetery lot is a resident of the county where the cemetery is located, the governing body shall cause to be served upon such lot owner a notice that proceedings have been initiated to revest the title of such lot in the county, city, town or village and that such lot owner may within the time provided by the notice file with the clerk or other officer performing the duties of clerk of such county, city, town or village, as applicable, a statement in writing explaining how rights in the cemetery lot were acquired and such person's desire to claim such rights in the lot. The notice shall be served in the manner provided for service of summons in a civil case and shall provide a period of not less than thirty days in which the statement can be filed. If the governing body ascertains that the statement filed by the lot owner is correct and the statement contains a claim asserting the rights of the lot owner in the lot, all proceedings by the governing body to revest title of the lot in the county, city, town or village shall be null and void and such proceedings shall be summarily terminated by the governing body as to the lots identified in the statement;

(3) If it is determined by the return of the sheriff of the county in which the cemetery is located that the lot owner is not a resident of the county and cannot be found in the county, the governing body may cause the notice required by subdivision (2) of this subsection to be published once each week for two consecutive weeks in a newspaper of general circulation within the county, city, town or village. Such notice shall contain a general description of the title revestment proceedings to be undertaken by the governing body pursuant to this section, lot numbers and descriptions and lot owners' names. In addition, the notice shall notify the lot owner that such lot owner may, within the time provided, file with the clerk or other officer performing the duties of a clerk a statement

setting forth how such lot owner acquired rights in the cemetery lot and that such lot owner desires to assert such rights. If the governing body ascertains that the statement filed by the lot owner is correct and the statement contains a claim asserting the rights of the lot owner in the lot, all proceedings by the governing body to revest title to the lot in the county, city, town or village shall be null and void and such proceedings shall be summarily terminated by the governing body as to the lots identified in the statement;

(4) All notices, with proofs of service, mailing and publication of such notices, and all ordinances or other resolutions adopted by the governing body relative to these revestment proceedings shall be made a part of the records of such governing body;

(5) Upon expiration of the period of time allowed for the filing of statements by lot owners as contained in the notice served personally, by mail or published, all parties who fail to file with the clerk, or other officer performing the duties of clerk in such county, city, town or village, their statement asserting their rights in the cemetery lots shall be deemed to have abandoned their rights and claims in the lot, and the governing body may bring an action in the circuit court of the county in which the cemetery is located against all lot owners in default, joining as many parties so in default as it may desire in one action, to have the rights of the parties in such lots or parcels terminated and the property restored to the governing body of such cemetery free of any right, title or interest of all such defaulting parties or their heirs, administrators, trustees, legatees, devisees or assigns. Such action in all other respects shall be brought and determined in the same manner as ordinary actions to determine title to real estate;

(6) In all such cases the fact that the grantee, holder or lot owner has not, for a term of more than fifty successive years, had occasion to make an interment in the cemetery lot and the fact that such grantee, holder or lot owner did not upon notification assert a claim in such lot, pursuant to this section, shall be prima facie evidence that the party has abandoned any rights such party may have had in such lot;

(7) A certified copy of the judgments in such actions quieting title may be filed in the office of the recorder of deeds in and for the county in which the cemetery is situated;

(8) All notices and all proceedings pursuant to this section shall distinctly describe the portion of such cemetery lot unused for burial purposes and the county, city, town or village shall leave sufficient ingress to, and egress from, any grave upon the lot, either by duly dedicated streets or alleys in the cemetery, or by leaving sufficient amounts of the unused portions of the cemetery for such purposes;

(9) This section shall not apply to any lot in any cemetery where a perpetual care contract has been entered into between such cemetery, the county, city, town or village and the owner of such lot;

(10) Compliance with the terms of this section shall as fully revest the county, city, town or village with, and divest the lot owner of record of, the title to such portions of such cemetery lot unused for burial purposes as though the lot had never been conveyed to any person, and such county, city, town or village, shall have, hold and enjoy such unclaimed portions of such lots for its own uses and purposes, subject to the laws of this state, and to the charter, ordinances and rules of such cemetery and the county, city, town or village.

Approved June 8, 2001

HB 409 [HB 409]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a conveyance between the Missouri National Guard and the City of Joplin.

AN ACT to authorize the conveyance of certain properties between the Missouri national guard and the city of Joplin.

SECTION

1. Conveyance of property by Missouri national guard to city of Joplin.
2. Consideration for property conveyed to city of Joplin —quit claim property to Missouri national guard.
3. Attorney general to approve form of conveyance.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY MISSOURI NATIONAL GUARD TO CITY OF JOPLIN. — The Missouri national guard is hereby authorized to remise, release and forever quit claim the following described property to the city of Joplin, Missouri. The property to be conveyed is more particularly described as follows:

Part of the Northeast Quarter of Section 21, Township 27, Range 33, City of Joplin, Newton County, Missouri, described as: Commencing at the Northwest corner of the Northeast Quarter of said Section 21; thence South 01 deg. 42 min. 35 sec. West along the West line of said Northeast Quarter 50.01 feet; thence South 89 deg. 36 min. 28 sec. East and parallel with the North line of said Northeast Quarter 1404.01 feet to the True Point of Beginning; thence continuing South 89 deg. 36 min. 28 sec. East 100.00 feet; thence South 00 deg. 41 min. 30 sec. West 500.00 feet; thence North 89 deg. 36 min. 28 sec. West 100.00 feet; thence North 00 deg. 41 min. 30 sec. East 500.00 feet to the True Point of Beginning, containing 1.15 acres, more or less, subject to any easements or rights of way of record.

SECTION 2. CONSIDERATION FOR PROPERTY CONVEYED TO CITY OF JOPLIN — QUIT CLAIM PROPERTY TO MISSOURI NATIONAL GUARD. — In consideration for the conveyance in section 1 of this act, the city of Joplin is hereby authorized to remise, release and forever quit claim the following described property to the Missouri national guard. The property to be conveyed is more particularly described as follows:

Part of the Northeast Quarter of Section 21, Township 27, Range 33, City of Joplin, Newton County, Missouri, described as: Commencing at the Northwest corner of the Northeast Quarter of said Section 21; thence South 01 deg. 42 min. 35 sec. West along the West line of said Northeast Quarter 50.01 feet; thence South 89 deg. 36 min. 28 sec. East and parallel with the North line of said Northeast Quarter 534.01 feet to the True Point of Beginning; thence continuing South 89 deg. 36 min. 28 sec. East 100.00 feet; thence South 00 deg. 41 min. 30 sec. West 500.00 feet; thence North 89 deg. 36 min. 28 sec. West 100.00 feet; thence North 00 deg. 41 min. 30 sec. East 500.00 feet to the True Point of Beginning, containing 1.15 acres, more or less, subject to any easements or rights of way of record.

SECTION 3. ATTORNEY GENERAL TO APPROVE FORM OF CONVEYANCE. — The attorney general shall approve as to form the instruments of conveyance.

Approved June 7, 2001

HB 410 [HB 410]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows expanded weed removal procedures in the City of St. Peters.

AN ACT to repeal section 71.285, RSMo 2000, relating to removal of weeds, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

71.285. Weeds or trash, city may cause removal and issue tax bill, when — certain cities may order abatement and remove weeds or trash, when — section not to apply to certain cities, when — city official may order abatement in certain cities — removal of weeds or trash, costs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 71.285, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 71.285, to read as follows:

71.285. WEEDS OR TRASH, CITY MAY CAUSE REMOVAL AND ISSUE TAX BILL, WHEN — CERTAIN CITIES MAY ORDER ABATEMENT AND REMOVE WEEDS OR TRASH, WHEN — SECTION NOT TO APPLY TO CERTAIN CITIES, WHEN — CITY OFFICIAL MAY ORDER ABATEMENT IN CERTAIN CITIES — REMOVAL OF WEEDS OR TRASH, COSTS. — 1. Whenever weeds or trash, in violation of an ordinance, are allowed to grow or accumulate, as the case may be, on any part of any lot or ground within any city, town or village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable. The marshal or other city official as designated in such ordinance shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or his **or her** or their agents, or by posting such notice on the premises; thereupon, the marshal or other designated city official may declare the weeds or trash to be a nuisance and order the same to be abated within five days; and in case the weeds or trash are not removed within the five days, the marshal or other designated city official shall have the weeds or trash removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum. Notwithstanding the time limitations of this section, any city, town or village located in a county of the first classification may hold the hearing provided in this section four days after notice is sent or posted, and may order at the hearing that the weeds or trash shall be abated within five business days after the hearing and if such weeds or trash are not removed within five business days after the hearing, the order shall allow the city to immediately remove the weeds or trash pursuant to this section. Except for lands owned by a public utility, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation, the provisions of this subsection shall not apply to any city with a population of at least seventy thousand inhabitants which is located in a county of the first classification with a population of less than one hundred thousand inhabitants which adjoins a county with a population of less than one hundred thousand inhabitants that contains part of a city with a population of three hundred fifty thousand or more inhabitants, any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first

classification, or any city, town or village located within a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, or any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, or the city of St. Louis, where such city, town or village establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the city of St. Louis [or], in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants **or in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand**, the marshal or other designated city official may order that the weeds or trash be abated within five business days after notice is sent to or posted on the property. In case the weeds or trash are not removed within the five days, the marshal or other designated city official may have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section.

3. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the city of St. Louis [or], in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants **or in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand**, the marshal or other designated official may, without further notification, have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section. The provisions of subsection 2 and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

4. The provisions of this section shall not apply to any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification where such city establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

Approved June 8, 2001

HB 420 [HB 420]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes termination clause on Motorcycle Safety Education Program.

AN ACT to repeal section 302.138, RSMo 2000, relating to motorcycle safety education.

SECTION

A. Enacting clause.

302.138. Termination of safety education program, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 302.138, RSMo 2000, is repealed.

[302.138. TERMINATION OF SAFETY EDUCATION PROGRAM, WHEN. — The provisions of sections 302.133 to 302.137 shall terminate on August 28, 2002.]

Approved June 7, 2001

HB 425 [HS HCS HB 425]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends the law regarding underground facility safety and damage prevention.

AN ACT to repeal sections 319.015, 319.022, 319.023, 319.024, 319.025, 319.026, 319.030, 319.045 and 319.050, RSMo 2000, relating to underground facility safety and damage prevention, and to enact in lieu thereof thirteen new sections relating to the same subject, with an expiration date for a certain section.

SECTION

- A. Enacting clause.
- 319.015. Definitions.
- 319.022. Notification centers, participation eligibility — names of owners and operators made available, when.
- 319.023. Operators of underground facility not in notification center, duties — recorder of deeds, duties.
- 319.024. Public notice of excavations, duties of owner and operator.
- 319.025. Excavator must give notice and obtain information, when, how — notice to notification center, when — marking site required, when — project plans provided, when.
- 319.026. Notice of excavator, form of — written record maintained — incorrect location of facility, duty of excavator — visible markings necessary to continue work.
- 319.028. Participation in notification center required, exceptions — withdrawal from notification center inadmissible in court proceedings.
- 319.030. Notification of location of underground facility, when, how — exception, notification centers — failure to provide notice of location, effect.
- 319.036. Exception to excavation notification requirements for agricultural property, when.
- 319.037. Excavation sites included in requirements — equipment prohibited at such sites.
- 319.041. Safe and prudent excavation required — no abrogation of contractual obligations with railroads.
- 319.045. Notice if underground facility disturbed, to whom, when — duties of excavator — civil penalties — attorney general may bring action.
- 319.050. Exemptions from requirement to obtain information.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 319.015, 319.022, 319.023, 319.024, 319.025, 319.026, 319.030, 319.045 and 319.050, RSMo 2000, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 319.015, 319.022, 319.023, 319.024, 319.025, 319.026, 319.030, 319.036, 319.037, 319.041, 319.045 and 319.050, to read as follows:

319.015. DEFINITIONS. — For the purposes of sections 319.010 to 319.050, the following terms mean:

- (1) "Approximate location", a strip of land not wider than the width of the underground facility plus two feet on either side thereof. In situations where reinforced concrete, multiplicity of adjacent facilities or other unusual specified conditions interfere with location attempts, the
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owner or operator shall designate to the best of his **or her** ability an approximate location of greater width;

(2) "Excavation", any operation in which earth, rock or other material in or on the ground is moved, removed or otherwise displaced by means of any tools, equipment or explosives and includes, without limitation, backfilling, grading, trenching, digging, ditching, drilling, well-drilling, augering, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, and demolition of structures, except that, the use of mechanized tools and equipment to break and remove pavement and masonry down only to the depth of such pavement or masonry, the use of high-velocity air to disintegrate and suction to remove earth, rock and other materials, and the tilling of soil for agricultural or seeding purposes shall not be deemed excavation. Backfilling or moving earth on the ground in connection with other excavation operations at the same site shall not be deemed separate instances of excavation;

(3) "Marking", the use of stakes, paint or other clearly identifiable materials to show the field location of underground facilities, or the area of proposed excavation, in accordance with the color code standard of the American Public Works Association. Unless otherwise provided by the American Public Works Association, the following color scheme shall be used[, unless otherwise agreed to by both parties or their authorized agents]: blue for **potable water**; **purple for reclaimed** water, irrigation and slurry lines; green for sewers and drain lines; red for electric, power lines, cables, conduit and lighting cables; orange for communications, including telephone, **cable television**, alarm or signal lines, cable or conduit; yellow for gas, oil, steam, petroleum or gaseous materials; white for [area of] proposed excavation; [fluorescent] pink for temporary marking of construction project site features such as centerline and top of slope and toe of slope;

(4) "Notification center", [an] **a statewide** organization operating **twenty-four hours a day, three hundred sixty-five days a year** on a not-for-profit basis, supported by its participants, or by more than one operator of underground facilities, having as its principal purpose the statewide receipt and dissemination to participating owners and operators of underground facilities of information concerning intended excavation activities in the area where such owners and operators have underground facilities, and open to participation by any and all such owners and operators on a fair and uniform basis. **Such notification center shall be governed by a board of directors elected by the membership and composed of representatives from each general membership group**;

(5) "Permitted project", a project for which a permit for the work to be performed is required to be issued by a local, state or federal agency and, as a prerequisite to receiving such permit, the applicant is required to locate all underground facilities in the area of the work and in the vicinity of the excavation and is required to notify each owner of such underground facilities;

(6) "Person", any individual, firm, joint venture, partnership, corporation, association, cooperative, municipality, political subdivision, governmental unit, department or agency and shall include a notification center and any trustee, receiver, assignee or personal representative thereof;

(7) "Pipeline facility" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of gas or the treatment of gas, or used or intended for use in the transportation of hazardous liquids including petroleum, or petroleum products;

(8) "Preengineered project", a project which is approved by an agency or political subdivision of the state and for which the agency or political subdivision responsible for the project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project and in such meeting all persons determined by the agency or political subdivision to have underground facilities located within the excavation area of the project are invited to attend and given an opportunity to verify or inform any agency or political subdivision of the location of their underground facilities, if any,

within the excavation area and where the location of all known underground facilities are duly located or noted on the engineering drawing as specifications for the project;

(9) **"Residential property", any real estate used or intended to be used as a residence by not more than four families on which no underground facilities exist which are owned or operated by any party other than the owner of said property;**

(10) **"Underground facility", any item of personal property which shall be buried or placed below ground for use in connection with the storage or conveyance of water, storm drainage, sewage, [electronic, telephonic, or telegraphic data communications] telecommunications service, cable television service, [electric energy] electricity, oil, gas, hazardous liquids or other substances, and shall include but not be limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments and those portions of pylons or other supports below ground that are within any public or private street, road or alley, right-of-way dedicated to the public use or utility easement of record, or prescriptive easement[.]; except that where gas distribution lines or electric lines, [telephone, television] tele-communications facilities, cable television facilities, water service lines, water system, storm drainage or sewer system lines [owned solely by the owner or owners of] are and such lines or facilities are owned solely by the owner or owners of such property, such lines or facilities receiving service shall not be considered underground facilities for purposes of this chapter; provided, however, for railroads regulated by the Federal Railroad Administration, "underground facility" as used in sections 319.015 to 319.050 shall not include any excavating done by a railroad when such excavating is done entirely on land which the railroad owns or on which the railroad operates, or in the event of emergency, on adjacent land;**

[(10)] (11) **"Working day", every day, except Saturday, Sunday or a legally declared local, state or federal holiday.**

319.022. NOTIFICATION CENTERS, PARTICIPATION ELIGIBILITY — NAMES OF OWNERS AND OPERATORS MADE AVAILABLE, WHEN. — 1. Owners and operators of underground pipeline facilities in compliance with federal law shall, and owners and operators of other underground facilities may, participate in a notification center. The provisions of this subsection shall expire on December 31, 2002.

2. [A] **All owners and operators of underground facilities which are located in a county of the first classification or second classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2003. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the first classification or second classification on or after January 1, 2003, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2003, all owners and operators of underground facilities which are located in a county of the first classification or second classification within the state shall maintain participation in the notification center.**

3. **All owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2005. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the third classification or fourth classification on or after January 1, 2005, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2005, all owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state shall maintain participation in the notification center.**

4. **The notification center shall [file with the recorder of deeds, in every county wherein any of the owners and operators which it represents have underground facilities, the name, address**

and telephone number of the notification center to which telephonic or written inquiries concerning the location of underground facilities may be addressed and a] **maintain in its offices and make available to any person upon request a current** list of the names and addresses of each owner and operator [which the organization represents.] **participating in the notification center, including the county or counties wherein each owner or operator has underground facilities.** The notification center may charge a reasonable fee to persons requesting such list as is necessary to recover the actual costs of printing and mailing.

5. Excavators shall be informed of the availability of the list of participants in the notification center required in subsection 3 of this section in the manner provided for in section 319.024.

6. An annual audit or review of the notification center shall be performed by a certified public accountant and a report of the findings submitted to the speaker of the house of representatives and the president pro tem of the senate.

319.023. OPERATORS OF UNDERGROUND FACILITY NOT IN NOTIFICATION CENTER, DUTIES — RECORDER OF DEEDS, DUTIES. — 1. Except for owners and operators who are participants in a notification center which [has filed a statement with the recorder of deeds] **maintains and makes available a current list of participants**, pursuant to section 319.022, all **owners and** operators having underground facilities within a county shall file with the recorder of deeds in any such county a notice that such **owner or** operator has underground facilities located within the county and the address and the telephone number of the person or persons from whom information about the location of such underground facilities may be obtained.

2. The recorder of deeds shall maintain a current list of all owners and operators who have filed statements [individually and through notification centers] pursuant to this chapter and shall make copies of such list available to any person upon request.

3. **The provisions of this section shall expire on December 31, 2002.**

319.024. PUBLIC NOTICE OF EXCAVATIONS, DUTIES OF OWNER AND OPERATOR. — 1. Every person owning or operating an underground facility shall assist excavators and the general public in determining the location of underground facilities before excavation activities are begun **or as may be required by subsection 6 of section 319.026 or subsection 1 of section 319.030 after an excavation has commenced.** Methods of informing the public and excavators of the means of obtaining such information may, but need not, include advertising, including advertising in periodicals of general circulation or trade publications, information provided to professional or trade associations which routinely provide information to excavators or design professionals, or sponsoring meetings of excavators and design professionals for such purposes. [Owners and operators who are participants in a notification center may meet the requirements of this section through the notification center.] **Information provided by the notification center on behalf of persons owning or operating an underground facility shall be deemed in compliance with this section by such persons.** Every person owning or operating underground facilities who has a written policy in determining the location of its underground facilities shall make available a copy of said policy to any person upon request.

2. Every person owning or operating underground pipeline facilities shall, in addition to the requirements of subsection 1 of this section:

(1) Identify on a current basis, persons who normally engage in excavation activities in the area in which the pipeline is located. Every such person who is a participant in a notification center shall be deemed to comply with this subdivision if such notification center maintains and updates a list of the names and addresses of all excavators who have given notice of intent to excavate to such notification center during the previous five years and provided the notification center shall, not less frequently than annually, provide public notification and actual notification to all excavators on such list of the existence and purpose of the notification center, and procedures for obtaining information from the notification center;

(2) Either directly or through the notification center, notify excavators and the public in the vicinity of his **or her** underground pipeline facility of the availability of the notification center by including the information set out in subsection 1 of section 319.025, in notifications required by the safety rules of the Missouri public service commission relating to its damage prevention program;

(3) Notify excavators annually who give notice of their intent to excavate [directly or through a notification center.] of the type of [temporary] marking to be provided and how to identify the markings.

319.025. EXCAVATOR MUST GIVE NOTICE AND OBTAIN INFORMATION, WHEN, HOW — NOTICE TO NOTIFICATION CENTER, WHEN — MARKING SITE REQUIRED, WHEN — PROJECT PLANS PROVIDED, WHEN. — 1. Except as provided in sections 319.030 and 319.050, a person shall not make or begin any excavation in any public street, road or alley, right-of-way dedicated to the public use or utility easement of record or within any private street or private property without first[, when necessary to determine proximity to underground facilities,] giving notice to and obtaining information concerning the possible location of any underground facilities which may be affected by said excavation from each and every owner and operator of underground facilities whose name appears on the current list of [the recorder of deeds in and for the county in which the excavation is to be made] **participants in the notification center. Prior to January 1, 2003, a person shall not make or begin any excavation pursuant to this subsection without also making notice to owners or operators of underground facilities which do not participate in a notification center and whose name appears on the current list of the recorder of deeds in and for the county in which the excavation is to occur. Beginning January 1, 2003, notice to the notification center of proposed excavation shall be deemed notice to all owners and operators of underground facilities.** The notice referred to [herein] **in this section** shall comply with the provisions of section 319.026.

2. [An excavator's notice to a notification center shall be deemed notice to all owners and operators of underground facilities represented by such notification center.] An excavator's notice to owners and operators of underground facilities [who are represented by a notification center according to the current list of the recorder of deeds] **participating in the notification center pursuant to section 319.022** is ineffective for purposes of subsection 1 of this section unless given to such notification center. **Prior to January 1, 2003,** the notice required by subsection 1 of this section shall be given directly to owners or operators of underground facilities who are not represented by a notification center.

3. If the excavator is engaged in trenching, ditching, drilling, well-drilling or -driving, **augering or boring** and, if upon notification by the excavator [as provided under] **pursuant to** section 319.026, the owner or operator notifies the excavator that the area of excavation cannot be determined from the description provided by the excavator, the excavator shall mark the proposed area of excavation prior to marking of location by the owner or operator of the facility. **For any excavation, as defined in section 319.015, if the owner or operator notifies the excavator that the area of excavation cannot be determined from the description provided by the excavator through the notice required by this section, the owner or operator may require the excavator to provide project plans to the owner or operator, or meet on the site of the excavation with representatives of the owner or operator as provided by subsection 1 of section 319.030. The provisions of this subsection shall not apply to owners of residential property performing excavations on their own property.**

319.026. NOTICE OF EXCAVATOR, FORM OF — WRITTEN RECORD MAINTAINED — INCORRECT LOCATION OF FACILITY, DUTY OF EXCAVATOR — VISIBLE MARKINGS NECESSARY TO CONTINUE WORK. — 1. An excavator shall serve notice of intent to excavate to the notification center by toll-free telephone number operated on a twenty-four hour per day, seven day per week basis or, **prior to January 1, 2003,** to individual nonparticipant owners or

operators at least two [full] working days, but not more than ten working days, before commencing the excavation activity. The notification center receiving such notice shall inform the excavator of all owners, operators and other persons to whom such notice will be transmitted and shall promptly transmit such notice to every public utility, municipal corporation and all persons owning or operating an underground facility in the area of excavation and which are participants in and have registered their locations with the notification center. **The notification center receiving such notice shall solicit all information required in subsection 2 of this section from the excavator and shall transmit all details of such notice as required by this section.**

2. Each notice of intent to excavate given [hereunder] **pursuant to this section** shall contain the name, address and telephone number **and facsimile number, if any**, of the person filing the notice of intent, the name, address and telephone number of the excavator, the date the excavation activity is to commence, the depth of planned excavation and, if applicable, that the use of explosives is anticipated on the excavation site, and the type of excavation being planned, including whether the excavation involves tunneling or horizontal boring. **The notice shall state whether someone is available between 8:00 a.m. and 5:00 p.m. on working days at the telephone number given and whether the excavator's telephone is equipped with a recording device.** The notice shall also specify the location of the excavation by any one or more of the following means: by reference to a specific street address, [or by reference to platted lot number of record,] or by reference to specific quarter section, and shall state whether excavation is to take place within the city limits. **The notice shall also include a description of the location or locations of the excavation at the site described by direction and approximate distance in relation to prominent features of the site, such as existing buildings or roadways. For excavations occurring outside the limits of an incorporated city, the following additional information shall be provided: the location of the excavation in relation to the nearest numbered, lettered or named state or county road which is posted on a road sign, including the approximate distance from the nearest intersection or prominent landmark; and, if the excavation is not on or near a posted numbered, lettered or named state or county road, directions as to how to reach the site of the excavation from the nearest such road. The notification center receiving such notice shall solicit all information required in this subsection and shall require the excavator to provide all such information before notice by the excavator is deemed to be completed pursuant to sections 319.015 to 319.050. The notification center shall transmit all details of such notice as required in subsection 1 of this section.**

3. A written record of each notice of intent to excavate shall be maintained by the notification center or, **prior to January 1, 2003, by the** nonmember owner or operator receiving direct notifications for a period of five years. The record shall include the date the notice was received and all information required by subsection 2 of this section which was provided by the excavator. If the recipient creates a record of the notice by computer or telephonic recording, such record of the original notice shall be maintained for one year from the date of receipt. Persons holding records of notices of intent to excavate and records of information provided to the excavator by the notification center or owner or operator of the facility, shall make copies of such records available for a reasonable copying fee upon the request of the owner or operator of the underground facilities or the excavator filing the notice.

4. If in the course of excavation the person responsible for the excavation operations discovers that the owner or operator of the underground facility **who is a participant in a notification center** has incorrectly located the underground facility, he **or she** shall notify the **notification center which shall inform the participating** owner or operator. **If the owner or operator of the underground facility is not a participant in a notification center prior to the January 1, 2003, effective date for mandatory participation pursuant to section 319.022, the person responsible for the excavation shall notify the owner.** The person responsible for maintaining records of the location of underground facilities for the owner or

operator shall correct such records to show the actual location of such facilities, if current records are incorrect.

5. Notwithstanding the fact that a project is a preengineered project or a permitted project, excavators connected therewith shall be required to give notification in accordance with this section prior to commencement of [construction or excavation, whichever event first occurs] excavation.

6. When markings have been provided in response to a notice of intent to excavate, excavators may continue to work within the area described in the notice so long as the markings are visible. If markings become unusable due to weather, construction or other cause, the excavator shall contact the notification center to request remarking. Such notice shall be given in the same manner as original notice of intent to excavate, and the owner or operator shall remark the site in the same manner, within the same time, as required in response to an original notice of intent to excavate. Each excavator shall exercise reasonable care not to unnecessarily disturb or obliterate markings provided for location of underground facilities. If remarking is required due to the excavator's failure to exercise reasonable care, or if repeated unnecessary requests for remarking are made by an excavator even though the markings are visible and usable, the excavator may be liable to the owner or operator for the reasonable cost of such remarking.

319.028. PARTICIPATION IN NOTIFICATION CENTER REQUIRED, EXCEPTIONS — WITHDRAWAL FROM NOTIFICATION CENTER INADMISSIBLE IN COURT PROCEEDINGS. — 1. On or after January 1, 2003, an owner or operator of underground facilities, who has become a participant in the notification center as required in section 319.022, will maintain participation in the notification center, unless it is determined that the inaccuracy rate of the notification center reaches fifteen percent. The accuracy rate shall be determined by the number of notifications of an excavation, where the owner or operator has no underground facilities at the excavation site, as described in the excavators notification, divided by the total number of notifications to an owner or operator of underground facilities during any twelve month period.

2. Once the notification center has an inaccuracy rate of fifteen percent or higher for any owner or operator of underground facilities, then any such owner or operator may withdraw from participation in the notification center by providing written notice to the notification center of its withdrawal. The owner or operator shall then file with the Recorder of Deeds for each County it has underground facilities, a statement that it has underground facilities and a name and phone number of a contact person that excavators shall contact and notify of its intent to excavate. The owner or operator shall also publish, at least quarterly, in a newspaper or other publication of general circulation in counties that have underground facilities a statement that the owner or operator has underground facilities and who the excavator shall contact regarding its intent to excavate.

3. After January 1, 2003, in the event that an owner or operator withdraws from the notification center no party may use in an any legal proceeding the fact that an owner or operator has withdrawn from the notification center as evidence to establish negligence, recklessness, lack of adherence to industry standards, or any other manner which would suggest that the owner or operator failed to comply with any standard of care.

319.030. NOTIFICATION OF LOCATION OF UNDERGROUND FACILITY, WHEN, HOW — EXCEPTION, NOTIFICATION CENTERS — FAILURE TO PROVIDE NOTICE OF LOCATION, EFFECT. — 1. Every person owning or operating an underground facility to whom notice of intent to excavate is required to be given [hereunder through a notification center or directly] shall, upon receipt of such notice as provided [herein] **in this section** from a person intending to commence an excavation, inform the excavator as promptly as practical, but not in excess of two working days from receipt of the notice, unless otherwise mutually agreed, of the

approximate location of underground facilities in or near the area of the excavation so as to enable the person engaged in the excavation work to locate the facilities in advance of and during the excavation work. **If the information available to the owner or operator of a pipeline facility or an underground electric or communications cable discloses that valves, vaults or other appurtenances are located in or near the area of excavation, the owner or operator shall either inform the excavator of the approximate location of such appurtenances at the same time and in the same manner as the approximate location of the remainder of the facility is provided, or shall at such time inform the excavator that appurtenances exist in the area and provide a telephone number through which the excavator may contact a representative of the owner or operator who will meet at the site within one working day after request from the excavator and at such meeting furnish the excavator with the available information about the location and nature of such appurtenances.** If the excavator states in the notice of intent to excavate that the excavation will involve tunneling or horizontal boring, the owner or operator shall inform the excavator of the depth, to the best of his or her knowledge or ability, of the facility according to the records of the owner or operator. The owner or operator shall provide the approximate location of underground facilities by use of [marking or any other usual and customary means of providing the approximate location. Upon agreement of the excavator and the owner or operator of the underground facility, location may be provided by an alternative means such as an on-site meeting or other conference between representatives of the excavator and the owner or operator. If the owner or operator determines that marking is not feasible due to terrain or other physical conditions at the site, he shall notify the excavator that marking cannot be used and advise the excavator of another means of location which will be used. If location is not marked, the excavator may request additional information in locating the facility if needed to avoid damage to the facility and the same shall be provided by the owner or operator within twenty-four hours of such request] **markings.** If stakes are used, staking shall be consistent with the color code and other standards for ground markings. Persons representing the excavator and the owner or operator shall meet on the site of excavation within [forty-eight hours] **two working days** of a request by either person for such meeting for the purpose of clarifying [ground] markings, or upon agreement of the excavator and owner or operator, such meeting may be an alternate means of providing the location of facilities **by originally marking the approximate location of the facility at the time of the meeting.** If upon receipt of a notice of intent to excavate, an owner or operator determines that [no] **he or she neither owns or operates** underground facilities [are located] in or near the area of excavation, the owner or operator shall within two working days after receipt of the notice, inform the excavator that **the owner or operator has** no facilities [are] located in the area **of the proposed excavation.** **If the notice of intent to excavate provided to the owner or operator of the underground facility by the notification center states that a person is available at the telephone number given in the notice between 8:00 a.m. and 5:00 p.m. on each working day or that the excavator's telephone is equipped with a recording device, or states a facsimile number for the excavator, the owner or operator shall make actual notice of no facilities in the area of the excavation described in the notice by one or more of the following methods: calling the telephone number given between 8:00 a.m. and 5:00 p.m. on a working day; leaving a message on the excavator's recording device; transmitting a facsimile message to the excavator; marking "no facilities" or "clear" at the site of excavation; or verbally informing the excavator at the site of excavation.** **If the notice of intent to excavate provided to the owner or operator does not indicate that a person is available at the telephone number given in the notice between 8:00 a.m. and 5:00 p.m. on each working day or that the excavator's telephone is equipped with a recording device or that a facsimile number is provided for receiving facsimile messages, then the owner or operator may attempt to notify the excavator of no facilities in the area of excavation by any of the methods indicated above; however, two documented attempts by the owner or operator to reach such an excavator by telephone**

shall constitute compliance with this subsection. A record of the date and means of informing the excavator that no facilities were located by the owner or operator, shall be included in the written records required by subsection 3 of section 319.026.

2. Owners and operators of underground facilities who are [represented by a] **participants in the notification center** according to the current list [of the recorder of deeds] **maintained in the offices of the notification center** shall be relieved of the responsibility to respond to notices of intent to excavate received directly from the person intending to commence an excavation, except for requests for clarification of [ground] markings through on-site meetings and requests for locations at the time of an emergency as provided by section 319.050.

3. In the event that a person owning or operating an underground facility fails to comply with the provisions of subsection 1 of this section after notice given by an excavator in compliance with section 319.026, the excavator, prior to commencing the excavation, shall [directly contact the appropriate owners or operators of underground facilities to obtain location information or special instructions for proceeding with the excavation at that location] **give a second notice to the same entity to whom the original notice was made as required by section 319.026.** If, after the receipt of the [direct contact by the excavator] **second notice**, the owner or operator of an underground facility fails to provide the excavator with location information [or special instructions] during the next working day, the excavator may commence the excavation. Nothing in this subsection shall excuse the excavator from exercising the degree of care in making the excavation as is otherwise required by law.

4. **For purposes of this section, a period of two working days begins upon receipt of the excavator's notice of intent to excavate or upon receipt of a request for a meeting and shall end on the second working day thereafter at the same time of day. If the excavator's notice of intent to excavate or a request for a meeting is received on a working day before 8:00 a.m., such period of time shall begin at 8:00 a.m. of that day. If the excavator's notice of intent to excavate or a request for a meeting is received after 5:00 p.m. on a working day, or at any time on a day that is not a working day, then such period of time shall begin at 8:00 a.m. of the first working day after the day of actual receipt.**

319.036. EXCEPTION TO EXCAVATION NOTIFICATION REQUIREMENTS FOR AGRICULTURAL PROPERTY, WHEN. — Any person owning or leasing agricultural property shall not be required to make notice of excavation required by section 319.022 for excavations on such property, if such excavation is not in the proximity of an underground facility which is marked with an aboveground placard or line marker and is not in the proximity of a utility easement known to that person. For purposes of this section agricultural property means any property used to produce an agricultural product as defined by section 348.400, RSMo, or defined as agricultural property by that section.

319.037. EXCAVATION SITES INCLUDED IN REQUIREMENTS — EQUIPMENT PROHIBITED AT SUCH SITES. — 1. Notwithstanding any other provision of law to the contrary, the procedures and requirements set forth in this section shall apply on the site of any excavation involving horizontal boring, including directional drilling, where the approximate location of underground facilities has been marked in compliance with section 319.030 and where any part of the walls of the intended bore are within the marked approximate location of the underground facility.

2. The excavator shall not use power-driven equipment for horizontal boring, including directional drilling, within the marked approximate location of such underground facilities until the excavator has made careful and prudent efforts to confirm the horizontal and vertical location thereof in the vicinity of the proposed excavation through methods appropriate to the geologic and weather conditions, and the nature of the facility, such as the use of electronic locating devices, hand digging, pot holing when practical, soft digging, vacuum methods, use of pressurized air or water, pneumatic hand

tools or other noninvasive methods as such methods are developed. Such methods of confirming location shall not violate established safety practices. Nothing in this subsection shall authorize any person other than the owner or operator of a facility to attach an electronic locating device to any underground facility. For excavations paralleling the underground facility, such efforts to confirm the location of the facility shall be made at careful and prudent intervals. The excavator shall also make careful and prudent efforts by such means as are appropriate to the geologic and weather conditions and the nature of the facility, to confirm the horizontal and vertical location of the boring device during boring operations. Notwithstanding the foregoing, the excavator shall not be required to confirm the horizontal or vertical location of the underground facilities if the excavator, using the methods described in this section, excavates a hole over the underground facilities to a depth two feet or more below the planned boring path and then carefully and prudently monitors the horizontal and vertical location of the boring device in a manner calculated to enable the device to be visually observed by the excavator as it crosses the entire width of the marked approximate location of the underground facilities.

319.041. SAFE AND PRUDENT EXCAVATION REQUIRED — NO ABROGATION OF CONTRACTUAL OBLIGATIONS WITH RAILROADS. — Nothing in the foregoing shall relieve an excavator from the obligation to excavate in a safe and prudent manner, nor shall it absolve an excavator from liability for damage to legally installed facilities. Notwithstanding any provision of law to the contrary, nothing in this chapter shall abrogate any contractual provisions entered into between any railroad and any other party owning or operating an underground facility within the railroad's right-of-way.

319.045. NOTICE IF UNDERGROUND FACILITY DISTURBED, TO WHOM, WHEN — DUTIES OF EXCAVATOR — CIVIL PENALTIES — ATTORNEY GENERAL MAY BRING ACTION. — 1. In the event of any damage or dislocation or disturbance of any underground facility in connection with any excavation, the person responsible for the excavation operations shall immediately notify the notification center and the owner or operator of the facility or the owner or operator, **if known**, if it is not a participant in the notification center **prior to January 1, 2003. On or after January 1, 2003, the responsible party shall notify the notification center only.**

2. In the event of any damage or dislocation or disturbance to any underground facility in advance of or during the excavation work, the person responsible for the excavation operations shall not conceal or attempt to conceal such damage or dislocation or disturbance, nor shall that person attempt or make repairs to the facility unless authorized by the owner or operator of the facility. In the case of sewer lines or facilities, emergency temporary repairs may be made by the excavator after notification without the owners' or operators' authorization to prevent further damage to the facilities. Such emergency repairs shall not relieve the excavator of responsibility to make notification as required by subsection 1 of this section.

3. Any person who violates in any material respect the provisions of section 319.022, 319.023, 319.025, 319.026, 319.030, **310.037** or 319.045 [of this chapter] or who willfully damages an underground facility shall be liable to the state of Missouri for a civil penalty of up to ten thousand dollars for each violation for each day such violation persists, except that the maximum penalty for violation of the provisions of sections 319.010 to 319.050 shall not exceed five hundred thousand dollars for any related series of violations. An action to recover such civil penalty may be brought by the attorney general or a prosecuting attorney on behalf of the state of Missouri in any appropriate circuit court of this state. Trial thereof shall be before the court, which shall consider the nature, circumstances and gravity of the violation, and with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the

penalty, and such other matters as justice may require in determining the amount of penalty imposed.

4. The attorney general may bring an action in any appropriate circuit court of this state for equitable relief to redress or restrain a violation by any person of any provision of sections 319.010 to 319.050. The court may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, temporary or permanent.

319.050. EXEMPTIONS FROM REQUIREMENT TO OBTAIN INFORMATION. — The provisions of sections 319.025 and 319.026 shall not apply **to any utility which is repairing or replacing any of its facilities due to damage caused during an unexpected occurrence** or when making an excavation at times of emergency [involving danger to life, health or property,] **resulting from a sudden, unexpected occurrence, and presenting a clear and imminent danger demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.** "Unexpected occurrence" includes, but is not limited to, **thunderstorms, high winds, ice or snow storms, fires, floods, earthquakes, or other soil or geologic movements, riots, accidents, water pipe breaks, vandalism or sabotage which cause damage to surface or subsurface facilities requiring immediate repair.** An excavator or utility may proceed regarding such emergency, provided all reasonable precautions have been taken to protect the underground facilities. In any such case, the excavator **or utility** shall give notification, substantially in compliance with section 319.026, as soon as practical, and upon being notified that an emergency exists, each owner and operator of an underground facility in the area shall immediately provide all location information reasonably available to any excavator who requests the same.

Approved July 2, 2001

HB 431 [HB 431]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes a technical correction in temporary licenses for trauma training.

AN ACT to repeal section 190.500, RSMo 2000, relating to health care licensure, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

190.500. Temporary license — qualified health care professions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 190.500, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 190.500, to read as follows:

190.500. TEMPORARY LICENSE — QUALIFIED HEALTH CARE PROFESSIONS. — Notwithstanding any other provision of law to the contrary, a temporary license may be issued for no more than a twelve-month period by the appropriate licensing board to any otherwise qualified health care professional licensed in another state and who meets such other requirements as the licensing board may prescribe by rule and regulation, if the health care professional:

- (1) Is acting pursuant to federal military orders under Title X for active duty personnel or Title [XXII] **XXXXII** for military reservists; and
- (2) Is enrolled in an accredited training program for trauma treatment and disaster response in a hospital in this state.

Approved July 10, 2001

HB 441 [HCS HB 441, 94 & 244]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides honorary high school diplomas to World War I, World War II and Korean War veterans who left high school before graduation to serve in the United States military.

AN ACT to amend chapter 160, RSMo, by adding thereto one new section relating to the awarding of honorary high school diplomas to certain veterans.

SECTION

A. Enacting clause.

160.341. Operation Recognition, honorary high school diplomas awarded to certain veterans, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 160, RSMo, is amended by adding thereto one new section, to be known as section 160.341, to read as follows:

160.341. OPERATION RECOGNITION, HONORARY HIGH SCHOOL DIPLOMAS AWARDED TO CERTAIN VETERANS, WHEN. — 1. The department of elementary and secondary education, with the cooperation of the Missouri veterans' commission, shall develop and administer a program to be known as "Operation Recognition". The purpose of the program is to award honorary high school diplomas to World War I, World War II and Korean War veterans who left high school prior to graduation to enter United States military service. The department and commission shall jointly develop an application procedure, distribute applications and publicize the program to school districts, accredited nonpublic schools, veterans' organizations, and state, regional and local media.

2. All honorably discharged World War I, World War II and Korean War veterans who are residents or former residents of the state of Missouri, who served in the United States military during World War I, World War II or the Korean War, and who did not return to school and complete their education after the war shall be eligible to receive a diploma. Diplomas may be issued posthumously.

3. Upon approval of an application, the department shall issue an honorary high school diploma for an eligible veteran. The diploma shall also include a statement specifying that the diploma is awarded in recognition of military service experiences and civic duty responsibilities. The diploma shall indicate the veteran's school of attendance. The department and commission shall work together to provide school districts, schools, communities and veterans' organizations with information about hosting a diploma

ceremony on or around Veterans Day. The diploma shall be mailed to the veteran or, if the veteran is deceased, to the veteran's family.

Approved July 12, 2001

HB 453 [CCS#2 SS SCS HB 453]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the sunset on fee collection for the Missouri Emergency Response Commission by ten years.

AN ACT to repeal sections 109.120, 109.241, 135.230, 292.606, 319.129, 319.131, 319.132, 319.133, 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 417.018, 444.765, 444.767, 444.770, 444.772, 444.773, 444.774, 444.775, 444.777, 444.778, 444.782, 444.784, 444.786, 444.787, 444.788 and 444.789, RSMo 2000, and to enact in lieu thereof thirty-seven new sections relating to commerce, with penalty provisions and an expiration date for certain sections.

SECTION

A. Enacting clause.

- 109.120. Records reproduced by photographic, video or electronic process, standards — cost.
 - 109.241. Local agency head, duties of.
 - 135.230. Tax credits and exemptions, maximum period granted — calculation formula — employee requirements, waived or reduced, when — motor carrier, tax credits, conditions — expansion of boundaries of enterprise zone — petition for additional period, qualifications.
 - 196.367. Manufacturer's exemption, conditions.
 - 292.606. Fees, certain employers, how much — deductions — excess credited when — agencies receiving funds, duties — use of funds, commission to establish criteria.
 - 319.129. Petroleum storage tank insurance fund created — lapse into general revenue prohibited — fee paid by all owners per tank to board — state treasurer may deposit funds where, interest credited to fund — administration of fund — board of trustees created, members, meetings — expires when — continuation after expiration, when.
 - 319.131. Owners of tanks containing petroleum products may elect to participate — advisory committee, members, duties, applications, content, standards and tests — financial responsibility — deductible — fund not liability of state — ineligible sites — tanks owned by certain school districts — damages covered, limitation — defense of third-party claims.
 - 319.132. Board of trustees to assess surcharge on petroleum products per transport load, exceptions, deposit in fund, refund procedure — rate of surcharge — suspension of fees, when.
 - 319.133. Annual payments by owners, amount established by rule, limitation — change of ownership, no new fee required — installment payments authorized, when — applicable rules.
 - 347.740. Additional fee — expiration date.
 - 351.127. Additional fee — expiration date.
 - 355.023. Additional fee — expiration date.
 - 356.233. Additional fee — expiration date.
 - 359.653. Additional fee — expiration date.
 - 400.009-508. Effectiveness of financing statement if new debtor becomes bound by security agreement.
 - 414.407. EPA credit banking and selling program established — definitions — biodiesel fuel revolving fund created — rulemaking authority — study on the use of alternative fuels in motor vehicles, contents.
 - 414.433. Purchase of biodiesel fuel by school districts — contracts with new generation cooperatives — definitions — rulemaking authority.
 - 415.417. Late fee assessed, when, amount — recovery of expenses, when.
 - 417.018. Additional fee — expiration date.
 - 444.765. Definitions.
 - 444.767. Powers of commission — rules, procedure, review.
 - 444.770. Permit required, when — release of certain bonds.
 - 444.772. Permit — application, contents, fees — amendment, how made — successor operator, duties of.
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- 444.773. Director to investigate applications — recommendation — public meeting or hearing — denial of permit, when.
- 444.774. Reclamation requirements and conditions.
- 444.775. Release of bond, conditions — petition, hearing — administrative review.
- 444.777. Entry upon lands and inspection by commission members — warrants to issue.
- 444.778. Bond — form — amount — duration — forfeiture — power of reclamation.
- 444.782. Attorney general to represent commission, when — hearings on bond forfeiture, notice.
- 444.784. Commission rules and regulations authorized — delegation of authority — forfeiture funds, where expended.
- 444.786. Operation without permit prohibited, penalty.
- 444.787. Investigation by commission, attorney general to file suit — formal complaint procedure.
- 444.788. Civil action.
- 444.789. Administrative procedure — inapplicability to public meetings.
- 620.1580. Advisory committee for electronic commerce established, members, terms, meetings.
- 643.220. Missouri emissions banking and trading program established by commission — promulgation of rules.
- 644.038. Certification of nationwide permit by department, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 109.120, 109.241, 135.230, 292.606, 319.129, 319.131, 319.132, 319.133, 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 417.018, 444.765, 444.767, 444.770, 444.772, 444.773, 444.774, 444.775, 444.777, 444.778, 444.782, 444.784, 444.786, 444.787, 444.788 and 444.789, RSMo 2000, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 109.120, 109.241, 135.230, 196.367, 292.606, 319.129, 319.131, 319.132, 319.133, 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 414.407, 414.433, 415.417, 417.018, 444.765, 444.767, 444.770, 444.772, 444.773, 444.774, 444.775, 444.777, 444.778, 444.782, 444.784, 444.786, 444.787, 444.788, 444.789, 620.1580, 643.220 and 644.038, to read as follows:

109.120. RECORDS REPRODUCED BY PHOTOGRAPHIC, VIDEO OR ELECTRONIC PROCESS, STANDARDS — COST. — 1. The head of any business, industry, profession, occupation or calling, or the head of any state, county or municipal department, commission, bureau or board may cause any and all records kept by such official, department, commission, bureau, board or business to be photographed, microphotographed, photostated or transferred to other material using photographic, video, or electronic processes, **including a computer-generated electronic or digital retrieval system**, and the judges and justices of the several courts of record within this state may cause all closed case files more than five years old to be photographed, microphotographed, photostated, or transferred to other material using photographic, video, or electronic processes, **including a computer-generated electronic or digital retrieval system**. Such reproducing material shall be of durable material and the device used to reproduce the records shall be such as to accurately reproduce and perpetuate the original records in all details and ensure their proper retention and integrity in accordance with standards established by the state records commission.

2. The cost of reproduction of closed files of the several courts of record as provided herein shall be chargeable to the county and paid out of the county treasury wherein the court is situated.

3. When any recorder of deeds in this state is required or authorized by law to record, copy, file, recopy, replace or index any document, plat, map or written instrument, the recorder may do so by photostatic, photographic, microphotographic, microfilm, or electronic process, **including a computer-generated electronic or digital retrieval system**, which produces a clear, accurate and permanent copy of the original, provided they meet the standards for permanent retention and integrity as promulgated by the local records board. The reproductions so made may be used as permanent records of the original. When microfilm or electronic reproduction is used as a permanent record by recorder of deeds, duplicate reproductions of all recorded documents, indexes and files required by law to be kept by the recorder shall be made and one copy of each document shall be stored in a fireproof vault and the other copy shall be

readily available in the recorder's office together with suitable equipment for viewing the record by projection to a size not smaller than the original and for reproducing copies of the recorded or filmed documents for any person entitled thereto. In all cases where instruments are recorded pursuant to this section by microfilm or electronic process, any release, assignment or other instrument affecting a previously recorded instrument by microfilm or electronic process shall be filed and recorded as a separate instrument and shall be cross-indexed to the document which it affects.

109.241. LOCAL AGENCY HEAD, DUTIES OF. — The head of each local agency shall:

(1) Submit within six months after a call to do so from the secretary of state in accordance with standards established by the local records board and promulgated by the director of records management and archives, schedules proposing the length of time each local records series warrants retention for administrative, legal, historical or fiscal purposes after it has been received or created by the local agency;

(2) Submit lists of local records that are not needed in the transaction of current business and that do not have sufficient administrative, legal, historical or fiscal value to warrant their further retention;

(3) Cooperate with the director in the conduct of surveys made by the director pursuant to the provisions of sections 109.200 to 109.310;

(4) When files in the custody of a local governmental agency are microfilmed or otherwise reproduced through photographic, video, electronic, or other reproduction processes, **including a computer-generated electronic or digital retrieval system**, the public official having custody of the reproduced records shall, before disposing of the originals, certify to the director that the official has made provisions for preserving the microfilms or electronically created records for viewing and recalling images to paper or original form, as appropriate, and that the official has done so in a manner guaranteeing the proper retention and integrity of the records in accordance with standards established by the local records board. Certification shall include a statement, written plan, or reputable vendor's certificate, as appropriate, that any microfilm or document reproduced through electronic process meets the standards for archival permanence established by the United States of America Standards Institute or similar agency, or local records board. If records are microfilmed, original camera masters shall not be used for frequent reference or reading purposes, but copies shall be made for such purposes.

135.230. TAX CREDITS AND EXEMPTIONS, MAXIMUM PERIOD GRANTED — CALCULATION FORMULA — EMPLOYEE REQUIREMENTS, WAIVED OR REDUCED, WHEN — MOTOR CARRIER, TAX CREDITS, CONDITIONS — EXPANSION OF BOUNDARIES OF ENTERPRISE ZONE — PETITION FOR ADDITIONAL PERIOD, QUALIFICATIONS. — 1. The exemption or credit established and allowed by section 135.220 and the credits allowed and established by subdivisions (1), (2), (3) and (4) of subsection 1 of section 135.225 shall be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such, subject, however, to the limitation that all such credits allowed in sections 135.225 and 135.235 and the exemption allowed in section 135.220 shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant to section 135.220 unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two or the new business facility is a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the exemption pursuant to section 135.220 or

the credit pursuant to subdivision (4) of subsection 1 of section 135.225, or both, it shall be required that at least thirty percent of new business facility employees, as determined by subsection 4 of section 135.110, meet the criteria established in section 135.240 or are residents of an enterprise zone or some combination thereof, except taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an insurance company that established a new business facility satisfying the requirements of subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and before December 31, 1994, and that employs in excess of three hundred fifty new business facility employees at such facility each tax period for which the credits allowable pursuant to subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to meet such requirement. A new business facility described as SIC 3751 shall be required to employ fifteen percent of such employees instead of the required thirty percent. For the purpose of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for a period of at least one full calendar month and must have been employed at the new business facility for at least one full calendar month, and persons qualifying because they meet the requirements of section 135.240 must have satisfied such requirement at the time they were employed by the new business facility and must have been employed at the new business facility for at least one full calendar month. The director may temporarily reduce or waive this requirement for any business in an enterprise zone with ten or less full-time employees, and for businesses with eleven to twenty full-time employees this requirement may be temporarily reduced. No reduction or waiver may be granted for more than one tax period and shall not be renewable. The exemptions allowed in sections 135.215 and 135.220 and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245 shall not be allowed to any "public utility", as such term is defined in section 386.020, RSMo. **For the purposes of achieving the fifteen percent employment requirement set forth in this subsection, a new business facility described as NAICS 336991 may count employees who were residents of the enterprise zone at the time they were employed by the new business facility and for at least ninety days thereafter, regardless of whether such employees continue to reside in the enterprise zone, so long as the employees remain employed by the new business facility and residents of the state of Missouri.**

2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge lines or railroads engaged in transporting property for hire or any interexchange telecommunications company that establish a new business facility shall be eligible to qualify for the exemptions allowed in sections 135.215 and 135.220, and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245, except that trucks, truck-trailers, truck semitrailers, rail or barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business facility investment nor shall truck drivers or rail or barge vehicle operators constitute new business facility employees.

3. Notwithstanding any other provision of sections 135.200 to 135.256 to the contrary, motor carriers establishing a new business facility on or after January 1, 1993, but before January 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and 135.235 and the exemption provided in section 135.220, even if such new business facility has not satisfied the employee criteria, provided that such taxpayer employs an average of at least two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an average investment of at least ten million **dollars** at such facility, exclusive of rolling stock, during the tax period for which such credits and exemption are being claimed.

4. Any governing authority having jurisdiction of an area that has been designated an enterprise zone may petition the department to expand the boundaries of such existing enterprise zone. The director may approve such expansion if the director finds that:

(1) The area to be expanded meets the requirements prescribed in section 135.207 or 135.210, whichever is applicable;

(2) The area to be expanded is contiguous to the existing enterprise zone; **and**

(3) The number of expansions do not exceed three after August 28, 1994.

5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this section, any governing authority having jurisdiction of an area that has been designated as an enterprise zone by the director, except one designated pursuant to this subsection, may file a petition, as prescribed by the director, for redesignation of such area for an additional period not to exceed seven years following the fifteenth anniversary of the enterprise zone's initial designation date; provided:

(1) The petition is filed with the director within three years prior to the date the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 are required to be removed pursuant to subsection 1 of this section;

(2) The governing authority identifies and conforms the boundaries of the area to be designated a new enterprise zone to the political boundaries established by the latest decennial census, unless otherwise approved by the director;

(3) The area satisfies the requirements prescribed in subdivisions (3), (4) and (5) of section 135.205 according to the latest decennial census or other appropriate source as approved by the director;

(4) The governing authority satisfies the requirements prescribed in sections 135.210, 135.215 and 135.255;

(5) The director finds that the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation; and

(6) The director's recommendation that the area be designated as an enterprise zone, is approved by the joint committee on economic development policy and planning, as otherwise required in subsection 3 of section 135.210.

6. Any taxpayer having established a new business facility in an enterprise zone except one designated pursuant to subsection 5 of this section, who did not earn the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 for the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this section, shall be granted such benefits for ten tax years, less the number of tax years the benefits were claimed or could have been claimed prior to the expiration of the original fifteen-year period, except that such tax benefits shall not be earned for more than seven tax periods during the ensuing seven-year period, provided the taxpayer continues to operate the new business facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section. Any taxpayer who establishes a new business facility subsequent to the commencement of the ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax credits authorized in sections 135.225 and 135.235, and the exemptions authorized in sections 135.215 and 135.220, pursuant to the same terms and conditions as prescribed in sections 135.100 to 135.256. The designation of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of section 135.210.

196.367. MANUFACTURER'S EXEMPTION, CONDITIONS. — Effective July 1, 2005, any manufacturer or distributor shall be exempted from the provisions of sections 196.365 to 196.445 if the manufacturer satisfies all applicable Food and Drug Administration regulations.

292.606. FEES, CERTAIN EMPLOYERS, HOW MUCH — DEDUCTIONS — EXCESS CREDITED WHEN — AGENCIES RECEIVING FUNDS, DUTIES — USE OF FUNDS, COMMISSION TO ESTABLISH CRITERIA. — 1. Fees shall be collected for a period of [ten] **twenty years from August 28, 1992. [The commission shall review the adequacy of the fees imposed in this section**

and shall present its assessment to affected departments and the respective committees of jurisdiction of the house and senate before December 1, 1994.]

2. (1) Any employer required to report under subsection 1 of section 292.605, except local governments and family-owned farm operations shall submit an annual fee to the commission of one hundred dollars along with the Tier II form. Owners or operators of petroleum retail facilities shall pay a fee of no more than fifty dollars for each such facility. Any person, firm or corporation selling, delivering or transporting petroleum or petroleum products and whose primary business deals with petroleum products or who is covered by the provisions of chapter 323, RSMo, if such person, firm or corporation is paying fees under the provisions of the federal hazardous materials transportation registration and fee assessment program, shall deduct such federal fees from those fees owed to the state under the provisions of this subsection. If the federal fees exceed or are equal to what would otherwise be owed under this subsection, such employer shall not be liable for state fees under this subsection. In relation to petroleum products "primary business" shall mean that the person, firm or corporation shall earn more than fifty percent of hazardous chemical revenues from the sale, delivery or transport of petroleum products. For the purpose of calculating fees, all grades of gasoline are considered to be one product, all grades of heating oils, diesel fuels, kerosenes, naphthas, aviation turbine fuel, and all other heavy distillate products except for grades of gasoline, are considered to be one product, and all varieties of motor lubricating oil are considered to be one product. For the purposes of this section "facility" shall mean all buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person. If more than three hazardous substances or mixtures are reported on the Tier II form, the employer shall submit an additional twenty-dollar fee for each hazardous substance or mixture. Fees collected under this subdivision shall be for each hazardous chemical on hand at any one time in excess of ten thousand pounds or for extremely hazardous substances on hand at any one time in excess of five hundred pounds or the threshold planning quantity, whichever is less, or for explosives or blasting agents on hand at any one time in excess of one hundred pounds. However, no employer shall pay more than ten thousand dollars per year in fees. Except moneys acquired through litigation shall not apply to this cap;

(2) Employers engaged in transporting hazardous materials by pipeline except local gas distribution companies regulated by the Missouri public service commission shall pay to the commission a fee of two hundred fifty dollars for each county in which they operate;

(3) Payment of fees is due each year by March first. A late fee of ten percent of the total owed, plus one percent per month of the total, may be assessed by the commission;

(4) If, on March first of each year, fees collected under this section and natural resources damages made available pursuant to section 640.235, RSMo, exceed one million dollars, any excess over one million dollars shall be proportionately credited to fees payable in the succeeding year by each employer who was required to pay a fee and who did pay a fee in the year in which the excess occurred. The limit of one million dollars contained herein shall be reviewed by the commission concurrent with the review of fees as required in subsection 1 of this section.

3. Local emergency planning committees receiving funds under section 292.604 shall coordinate with the commission and the department in chemical emergency planning, training, preparedness, and response activities. Local emergency planning committees receiving funds under section 260.394, RSMo, sections 292.602, 292.604, 292.605, 292.606, 292.615 and section 640.235, RSMo, shall provide to the commission an annual report of expenditures and activities.

4. Fees collected by the department and all funds provided to local emergency planning committees shall be used for chemical emergency preparedness purposes as outlined in sections 292.600 to 292.625 and the federal act, including contingency planning for chemical releases; exercising, evaluating, and distributing plans, providing training related to chemical emergency preparedness and prevention of chemical accidents; identifying facilities required to report; processing the information submitted by facilities and making it available to the public; receiving

and handling emergency notifications of chemical releases; operating a local emergency planning committee; and providing public notice of chemical preparedness activities. Local emergency planning committees receiving funds under this section may combine such funds with other local emergency planning committees to further the purposes of sections 292.600 to 292.625, or the federal act.

5. The commission shall establish criteria and guidance on how funds received by local emergency planning committees may be used.

319.129. PETROLEUM STORAGE TANK INSURANCE FUND CREATED — LAPSE INTO GENERAL REVENUE PROHIBITED — FEE PAID BY ALL OWNERS PER TANK TO BOARD — STATE TREASURER MAY DEPOSIT FUNDS WHERE, INTEREST CREDITED TO FUND — ADMINISTRATION OF FUND — BOARD OF TRUSTEES CREATED, MEMBERS, MEETINGS — EXPIRES WHEN — CONTINUATION AFTER EXPIRATION, WHEN. — 1. There is hereby created a special trust fund to be known as the "Petroleum Storage Tank Insurance Fund" within the state treasury which shall be the successor to the underground storage tank insurance fund. Moneys in such special trust fund shall not be deemed to be state funds. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to general revenue at the end of each biennium.

2. The owner or operator of any underground storage tank, including the state of Missouri and its political subdivisions and public transportation systems, in service on August 28, 1989, shall submit to the department a fee of one hundred dollars per tank on or before December 31, 1989. The owner or operator of any underground storage tank who seeks to participate in the petroleum storage tank insurance fund, including the state of Missouri and its political subdivisions and public transportation systems, and whose underground storage tank is brought into service after August 28, 1998, shall transmit one hundred dollars per tank to the board with his or her initial application. Such amount shall be a one-time payment, and shall be in addition to the payment required by section 319.133. The owner or operator of any aboveground storage tank regulated by this chapter, including the state of Missouri and its political subdivisions and public transportation systems, who seeks to participate in the petroleum storage tank insurance fund, shall transmit one hundred dollars per tank to the board with his or her initial application. Such amount shall be a one-time payment and shall be in addition to the payment required by section 319.133. Moneys received pursuant to this section shall be transmitted to the director of revenue for deposit in the petroleum storage tank insurance fund.

3. The state treasurer may deposit moneys in the fund in any of the qualified depositories of the state. All such deposits shall be secured in a manner and upon the terms as are provided by law relative to state deposits. Interest earned shall be credited to the petroleum storage tank insurance fund.

4. The general administration of the fund and the responsibility for the proper operation of the fund, including all decisions relating to payments from the fund, are hereby vested in a board of trustees. The board of trustees shall consist of the commissioner of administration or the commissioner's designee, the director of the department of natural resources or the director's designee, the director of the department of agriculture or the director's designee, and eight citizens appointed by the governor with the advice and consent of the senate. Three of the appointed members shall be owners or operators of retail petroleum storage tanks, including one tank owner or operator of greater than one hundred tanks; one tank owner or operator of less than one hundred tanks; and one aboveground storage tank owner or operator. One appointed trustee shall represent a financial lending institution, and one appointed trustee shall represent the insurance underwriting industry. One appointed trustee shall represent industrial or commercial users of petroleum. The two remaining appointed citizens shall have no petroleum-related business interest, and shall represent the nonregulated public at large. The members appointed by the governor shall serve four-year terms except that the governor shall designate two of the original appointees to be appointed for one year, two to be appointed for two years, two to be

appointed for three years and two to be appointed for four years. Any vacancies occurring on the board shall be filled in the same manner as provided in this section.

5. The board shall meet in Jefferson City, Missouri, within thirty days following August 28, 1996. Thereafter, the board shall meet upon the written call of the chairman of the board or by the agreement of any six members of the board. Notice of each meeting shall be delivered to all other trustees in person or by registered mail not less than six days prior to the date fixed for the meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

6. Six trustees shall constitute a quorum for the transaction of business, and any official action of the board shall be based on a majority vote of the trustees present.

7. The trustees shall serve without compensation but shall receive from the fund their actual and necessary expenses incurred in the performance of their duties for the board.

8. All staff resources for the Missouri petroleum storage tank insurance fund shall be provided by the department of natural resources or another state agency as otherwise specifically determined by the board. The fund shall compensate the department of natural resources or other state agency for all costs of providing staff required by this subsection. Such compensation shall be made pursuant to contracts negotiated between the board and the department of natural resources or other state agency.

9. In order to carry out the fiduciary management of the fund, the board may select and employ, or may contract with, persons experienced in insurance underwriting, accounting, the servicing of claims and rate making, and legal counsel to defend third-party claims, who shall serve at the board's pleasure. **Invoices for such services shall be presented to the board in sufficient detail to allow a thorough review of the costs of such services.**

10. At the first meeting of the board, the board shall elect one of its members as chairman. The chairman shall preside over meetings of the board and perform such other duties as shall be required by action of the board.

11. The board shall elect one of its members as vice chairman, and the vice chairman shall perform the duties of the chairman in the absence of the latter or upon the chairman's inability or refusal to act.

12. The board shall determine and prescribe all rules and regulations as they relate to fiduciary management of the fund, pursuant to the purposes of sections 319.100 to 319.137. In no case shall the board have oversight regarding environmental cleanup standards for petroleum storage tanks.

13. No trustee or staff member of the fund shall receive any gain or profit from any moneys or transactions of the fund. This shall not preclude any eligible trustee from making a claim or receiving benefits from the petroleum storage tank insurance fund as provided by sections 319.100 to 319.137.

14. The board may reinsure all or a portion of the fund's liability. Any insurer who sells environmental liability insurance in this state may, at the option of the board, reinsure some portion of the fund's liability.

15. The petroleum storage tank insurance fund shall expire on December 31, [2003] **2010**, or upon revocation of federal regulation 40 CFR Parts 280 and 285, whichever occurs first, unless extended by action of the general assembly. **After December 31, 2010, the board of trustees may continue to function for the sole purpose of completing payment of claims made prior to December 31, 2010.**

16. **The board shall annually commission an independent financial audit of the petroleum storage tank insurance fund. The board shall biennially commission an actuarial analysis of the petroleum storage tank insurance fund. The results of the financial audit and the actuarial analysis shall be made available to the public. The board may contract with third parties to carry out the requirements of this subsection.**

319.131. OWNERS OF TANKS CONTAINING PETROLEUM PRODUCTS MAY ELECT TO PARTICIPATE — ADVISORY COMMITTEE, MEMBERS, DUTIES, APPLICATIONS, CONTENT, STANDARDS AND TESTS — FINANCIAL RESPONSIBILITY — DEDUCTIBLE — FUND NOT LIABILITY OF STATE — INELIGIBLE SITES — TANKS OWNED BY CERTAIN SCHOOL DISTRICTS — DAMAGES COVERED, LIMITATION — DEFENSE OF THIRD-PARTY CLAIMS. — 1. Any owner or operator of one or more petroleum storage tanks may elect to participate in the petroleum storage tank insurance fund to partially meet the financial responsibility requirements of sections 319.100 to 319.137. **Subject to regulations of the board of trustees, owners or operators may elect to continue their participation in the fund subsequent to the transfer of their property to another party.** Current or former refinery sites or petroleum pipeline or marine terminals are not eligible for participation in the fund.

2. The board shall establish an advisory committee which shall be composed of insurers and owners and operators of petroleum storage tanks. The advisory committee established pursuant to this subsection shall report to the board. The committee shall monitor the fund and recommend statutory and administrative changes as may be necessary to assure efficient operation of the fund. The committee, in consultation with the board and the department of insurance, shall annually report to the general assembly on the availability and affordability of the private insurance market as a viable method of meeting the financial responsibilities required by state and federal law in lieu of the petroleum storage tank insurance fund.

3. (1) Except as otherwise provided by this section, any person seeking to participate in the insurance fund shall submit an application to the board of trustees and shall certify that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the United States Environmental Protection Agency, **except those standards and regulations pertaining to spill prevention control and counter-measure plans, and** rules established by the Missouri department of natural resources and the Missouri department of agriculture. The applicant shall submit proof that the applicant has a reasonable assurance of the tank's integrity. Proof of tank integrity may include but not be limited to any one of the following: tank tightness test, electronic leak detection, monitoring wells, daily inventory reconciliation, vapor test or any other test that may be approved by the director of the department of natural resources or the director of the department of agriculture. The applicant shall submit evidence that the applicant can meet all applicable financial responsibility requirements of this section.

(2) A creditor, specifically a person who, without participating in and not otherwise primarily engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily for the purpose of, or in connection with, securing payment or performance of a loan or to protect a security interest in or lien on the tank or the property where the tank is located, or serves as trustee or fiduciary upon transfer or receipt of the property, may be a successor in interest to a debtor pursuant to this section, provided that the creditor gives notice of the interest to the insurance fund by certified mail, return receipt requested. Part of such notice shall include a copy of the lien, including but not limited to a security agreement or a deed of trust as appropriate to the property. The term "successor in interest" as provided in this section means a creditor to the debtor who had qualified real property in the insurance fund prior to the transfer of title to the creditor, and the term is limited to access to the insurance fund. The creditor may cure any of the debtor's defaults in payments required by the insurance fund, provided the specific real property originally qualified pursuant to this section. The creditor, or the creditor's subsidiary or affiliate, who forecloses or otherwise obtains legal title to such specific real property held as collateral for loans, guarantees or other credit, and which includes the debtor's aboveground storage tanks or underground storage tanks, or both such tanks shall provide notice to the fund of any transfer of creditor to subsidiary or affiliate. Liability pursuant to sections 319.100 to 319.137 shall be confined to such creditor or such creditor's subsidiary or affiliate. A creditor shall apply for a transfer of coverage and shall present evidence indicating, a lien, contractual right, or operation of law permitting such transfer, and may utilize the creditor's

affiliate or subsidiary to hold legal title to the specific real property taken in satisfaction of debts. Creditors may be listed as insured or additional insured on the insurance fund, and not merely as mortgagees, and may assign or otherwise transfer the debtor's rights in the insurance fund to the creditor's affiliate or subsidiary, notwithstanding any limitations in the insurance fund on assignments or transfer of the debtor's rights.

(3) Any person participating in the fund shall annually submit an amount established pursuant to subsection 1 of section 319.133 which shall be deposited to the credit of the petroleum storage tank insurance fund.

4. [The owner or operator] **Any person** making a claim pursuant to this section and sections 319.129 and 319.133 shall be liable for the first ten thousand dollars of the cost of cleanup associated with a release from a petroleum storage tank without reimbursement from the fund. The petroleum storage tank insurance fund shall assume all costs, except as provided in subsection 5 of this section, which are greater than ten thousand dollars but less than one million dollars per occurrence or two million dollars aggregate per year. The liability of the petroleum storage tank insurance fund is not the liability of the state of Missouri. The provisions of sections 319.100 to 319.137 shall not be construed to broaden the liability of the state of Missouri beyond the provisions of sections 537.600 to 537.610, RSMo, nor to abolish or waive any defense which might otherwise be available to the state or to any person. The presence of existing contamination at a site where a person is seeking insurance in accordance with this section shall not affect that person's ability to participate in this program, provided the person meets all other requirements of this section. Any person who qualifies pursuant to sections 319.100 to 319.137 and who has requested approval of a project for remediation from the fund, which request has not yet been decided upon shall annually be sent a status report including an estimate of when the project may expect to be funded and other pertinent information regarding the request.

5. The fund shall provide coverage for third-party claims involving property damage or bodily injury caused by leaking petroleum storage tanks whose owner or operator is participating in the fund at the time the release occurs or is discovered. Coverage for third-party bodily injury shall not exceed one million dollars per occurrence. Coverage for third-party property damage shall not exceed one million dollars per occurrence. The fund shall not compensate an owner or operator for repair of damages to property beyond that required to contain and clean up a release of a regulated substance or compensate an owner or operator or any third party for loss or damage to other property owned or belonging to the owner or operator, or for any loss or damage of an intangible nature, including, but not limited to, loss or interruption of business, pain and suffering of any person, lost income, mental distress, loss of use of any benefit, or punitive damages.

6. The fund shall, within limits specified in this section, assume costs of third-party claims and cleanup of contamination caused by releases from petroleum storage tanks. The fund shall provide the defense of eligible third-party claims including the negotiations of any settlement.

7. Nothing contained in sections 319.100 to 319.137 shall be construed to abrogate or limit any right, remedy, causes of action, or claim by any person sustaining personal injury or property damage as a result of any release from any type of petroleum storage tank, nor shall anything contained in sections 319.100 to 319.137 be construed to abrogate or limit any liability of any person in any way responsible for any release from a petroleum storage tank or any damages for personal injury or property damages caused by such a release.

8. (1) The fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks, the owner or operator of which is participating in the fund or the owner or operator of which has made application for participation in the fund by December 31, 1997, regardless of when such release occurred, provided that those persons who have made application are ultimately accepted into the fund. Applicants shall not be eligible for fund benefits until they are accepted into the fund. This section shall not preclude the owner or operator of petroleum storage tanks coming into service after December 31, 1997, from making application to and participating in the petroleum storage tank insurance fund.

(2) Notwithstanding the provisions of section 319.100 and the provisions of subdivision (1) of this section, the fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks owned by school districts all or part of which are located in a county of the third classification without a township form of government and having a population of more than ten thousand seven hundred but less than eleven thousand inhabitants, and which make application for participation in the fund by August 28, 1999, regardless of when such release occurred. Applicants shall not be eligible for fund benefits until they are accepted into the fund, and costs incurred prior to that date shall not be eligible expenses.

9. (1) The fund shall provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to August 28, 1995. The fund shall also provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1985, if the current owner of the real property where the tanks are located purchased such property before December 31, 1985, provided such sites are reported to the fund on or before June 30, 2000. The fund shall make no payment for expenses incurred at such sites prior to August 28, 1999. Nothing in sections 319.100 to 319.137 shall affect the validity of any underground storage tank fund insurance policy in effect on August 28, 1996.

(2) An owner or operator who submits a request as provided in this subsection is not required to bid the costs and expenses associated with professional environmental engineering services. The board may disapprove all or part of the costs and expenses associated with the environmental engineering services if the costs are excessive based upon comparable service costs or current market value of similar services. The owner or operator shall solicit bids for actual remediation and cleanup work as provided by rules of the board.

10. The fund shall provide moneys for cleanup of contamination caused by releases from aboveground storage tanks utilized for the sale of products regulated by chapter 414, RSMo, which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to July 1, 1997.

319.132. BOARD OF TRUSTEES TO ASSESS SURCHARGE ON PETROLEUM PRODUCTS PER TRANSPORT LOAD, EXCEPTIONS, DEPOSIT IN FUND, REFUND PROCEDURE — RATE OF SURCHARGE — SUSPENSION OF FEES, WHEN. — 1. The board shall assess a surcharge on all petroleum products within this state which are enumerated by section 414.032, RSMo. Except as specified by this section, such surcharge shall be administered pursuant to the provisions of [sections] **subsections 1 to 3 of section 414.102, RSMo, and subsections 1 and 2 of section 414.152, RSMo.** Such surcharge shall be imposed upon such petroleum products within this state and shall be assessed on each transport load, or the equivalent of an average transport load if moved by other means. All revenue generated by the assessment of such surcharges shall be deposited to the credit of the special trust fund known as the petroleum storage tank insurance fund.

2. Any person who claims to have paid the surcharge in error may file a claim for a refund with the board within three years of the payment. The claim shall be in writing and signed by the person or the person's legal representative. The board's decision on the claim shall be in writing and may be delivered to the person by first class mail. Any person aggrieved by the board's decision may seek judicial review by bringing an action against the board in the circuit court of Cole County pursuant to section 536.150, RSMo, no later than sixty days following the date the board's decision was mailed. The department of revenue shall not be a party to such proceeding.

[2.] **3.** The board shall assess and annually reassess the financial soundness of the petroleum storage tank insurance fund.

[3.] **4. (1)** The board shall set, [by rule,] **in a public meeting with an opportunity for public comment**, the rate of the surcharge that is to be assessed on each such transport load or equivalent but such rate shall be no more than [twenty-five] **sixty** dollars per transport load or an equivalent thereof. A transport load shall be deemed to be eight thousand gallons.

(2) The board may increase or decrease the surcharge, up to a maximum of sixty dollars, only after giving at least sixty days notice of its intention to alter the surcharge; provided however, the board shall not increase the surcharge by more than fifteen dollars in any year. The board must coordinate its actions with the department of revenue to allow adequate time for implementation of the surcharge change.

(3) If the fund's cash balance on the first day of any month exceeds the sum of its liabilities, plus ten percent, the transport load fee shall automatically revert to twenty-five dollars per transport load on the first day of the second month following this event.

(4) Moneys generated by this surcharge shall not be used for any purposes other than those outlined in sections 319.129 through 319.133 and section 319.138. Nothing in this subdivision shall limit the board's authority to contract with the department of natural resources pursuant to section 319.129 to carry out the purposes of the fund as determined by the board.

[4.] **5.** The board shall ensure that the fund retain a balance of at least twelve million dollars but not more than one hundred million dollars. If, at the end of any quarter, the fund balance is above one hundred million dollars, the treasurer shall notify the board thereof. The board shall suspend the collection of fees [under] **pursuant to** this section beginning on the first day of the first quarter following the receipt of notice. If, at the end of any quarter, the fund balance is below twenty million dollars, the treasurer shall notify the board thereof. The board shall reinstate the collection of fees [under] **pursuant to** this section beginning on the first day of the first quarter following the receipt of notice.

[5.] **6.** Railroad corporations as defined in section 388.010, RSMo, and airline companies as defined in section 155.010, RSMo, shall not be subject to the load fee described in this chapter nor permitted to participate in or make claims against the petroleum storage tank insurance fund created in section 319.129.

319.133. ANNUAL PAYMENTS BY OWNERS, AMOUNT ESTABLISHED BY RULE, LIMITATION — CHANGE OF OWNERSHIP, NO NEW FEE REQUIRED — INSTALLMENT PAYMENTS AUTHORIZED, WHEN — APPLICABLE RULES. — 1. The board shall, in consultation with the advisory committee established pursuant to subsection 2 of section 319.131, establish, by rule, the amount which each owner or operator who participates in the fund shall pay annually into the fund, but such amount shall not exceed the limits established in this section.

2. Each participant shall annually pay an amount which shall be at least one hundred dollars per year but not more than three hundred dollars per year for any tank, as established by the board by rule.

3. No new registration [or participation] fee is required for a change of ownership of a petroleum storage tank. [The new owner shall pay the registration or participation fee at the next due date to continue eligibility.]

4. The board shall establish procedures where persons owning fifty or more petroleum storage tanks may pay any fee established pursuant to subsection 1 of this section in installments.

5. All rules applicable to the former underground storage tank insurance fund not inconsistent with the provisions of sections 319.100 to 319.137 shall apply to the petroleum storage tank insurance fund as of August 28, 1996.

347.740. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected

as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

351.127. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

355.023. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

356.233. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

359.653. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

400.009-508. EFFECTIVENESS OF FINANCING STATEMENT IF NEW DEBTOR BECOMES BOUND BY SECURITY AGREEMENT. — The secretary of state may collect an additional fee of five dollars on each and every fee paid to the secretary of state as required in chapter 400.9. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

414.407. EPACT CREDIT BANKING AND SELLING PROGRAM ESTABLISHED — DEFINITIONS — BIODIESEL FUEL REVOLVING FUND CREATED — RULEMAKING AUTHORITY — STUDY ON THE USE OF ALTERNATIVE FUELS IN MOTOR VEHICLES, CONTENTS. — **1.** As used in this section, the following terms mean:

- (1) "B-20", a blend of twenty percent by volume biodiesel fuel and eighty percent by volume petroleum-based diesel fuel;
- (2) "Biodiesel", fuel as defined in ASTM Standard PS121;
- (3) "EPAct", the federal Energy Policy Act, 42 U.S.C. 13201, et seq.;
- (4) "EPAct credit", a credit issued pursuant to EPAct;
- (5) "Fund", the biodiesel fuel revolving fund;
- (6) "Incremental cost", the difference in cost between biodiesel fuel and conventional petroleum-based diesel fuel at the time the biodiesel fuel is purchased.

2. The department, in cooperation with the department of agriculture, shall establish and administer an EPAct credit banking and selling program to allow state agencies to use moneys generated by the sale of EPAct credits to purchase biodiesel fuel for use in state vehicles. Each state agency shall provide the department with all vehicle fleet

information necessary to determine the number of EAct credits generated by the agency. The department may sell credits in any manner pursuant to the provisions of EAct.

3. There is hereby created in the state treasury the "Biodiesel Fuel Revolving Fund", into which shall be deposited moneys received from the sale of EAct credits banked by state agencies on the effective date of this section and in future reporting years, any moneys appropriated to the fund by the general assembly, and any other moneys obtained or accepted by the department for deposit into the fund. The fund shall be managed to maximize benefits to the state in the purchase of biodiesel fuel and, when possible, to accrue those benefits to state agencies in proportion to the number of EAct credits generated by each respective agency.

4. Moneys deposited into the fund shall be used to pay for the incremental cost of biodiesel fuel with a minimum biodiesel concentration of B-20 for use in state vehicles and for administration of the fund. Not later than January thirty-first of each year, the department shall submit an annual report to the general assembly on the expenditures from the fund during the preceding fiscal year.

5. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund shall be transferred to the general revenue fund, and any appropriation made to the fund shall be transferred to the general revenue fund, and any appropriation made to the fund shall not lapse. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Interest and moneys earned on such investments shall be credited to the fund.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

7. The department shall conduct a study of the use of alternative fuels in motor vehicles in the state and shall report its findings and recommendations to the general assembly no later than January 1, 2002. Such study shall include:

- (1) An analysis of the current use of alternative fuels in public and private vehicle fleets in the state;
- (2) An assessment of methods that the state may use to increase use of alternative fuels in vehicle fleets, including the sale of credits generated pursuant to the federal Energy Policy Act, 42 U.S.C. 13201, et seq., to pay for the difference in cost between alternative fuels and conventional fuels;
- (3) An assessment of the benefits or harm that increased use of alternative fuels may make to the state's economy and environment;
- (4) Any other information that the department deems relevant.

414.433. PURCHASE OF BIODIESEL FUEL BY SCHOOL DISTRICTS — CONTRACTS WITH NEW GENERATION COOPERATIVES — DEFINITIONS — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms mean:

- (1) "B-20", a blend of two fuels of twenty percent by volume biodiesel and eighty percent by volume petroleum-based diesel fuel;
- (2) "Biodiesel", as defined in ASTM Standard PS121 or its subsequent standard specification for biodiesel fuel (B 100) blend stock for distillate fuels;
- (3) "Eligible new generation cooperative", a nonprofit farmer-owned cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter

357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility, as defined in section 348.430, RSMo.

2. Beginning with the 2002-2003 school year and lasting through the 2005-2006 school year, any school district may contract with an eligible new generation cooperative to purchase biodiesel fuel for its buses of a minimum of B-20 under conditions set out in subsection 3 of this section.

3. Every school district that contracts with an eligible new generation cooperative for biodiesel pursuant to subsection 2 of this section shall receive an additional payment through its state transportation aid payment pursuant to section 163.161, RSMo, so that the net price to the contracting district for biodiesel will not exceed the rack price of regular diesel. If there is no incremental cost difference between biodiesel above the rack price of regular diesel, then the state school aid program will not make payment for biodiesel purchased during the period where no incremental cost exists. The payment shall be made based on the incremental cost difference incrementally up to seven-tenths percent of the entitlement authorized by section 163.161, RSMo, for the 1998-1999 school year. The payment amount may be increased by four percent each year during the life of the program. No payment shall be authorized pursuant to this subsection or contract required pursuant to subsection 2 of this section if moneys are not appropriated by the general assembly.

4. The department of elementary and secondary education shall promulgate such rules as are necessary to implement this section, including but not limited to a method of calculating the reimbursement of the contracting school districts and waiver procedures if the amount appropriated does not cover the additional costs for the use of biodiesel. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

415.417. LATE FEE ASSESSED, WHEN, AMOUNT — RECOVERY OF EXPENSES, WHEN. —

1. For the purposes of this section, "late fee" means a fee or charge assessed by an operator for an occupant's failure to pay rent when due. A late fee is not interest on a debt, nor is a late fee a reasonable expense which the operator may incur in the course of collecting unpaid rent in enforcing his or her lien rights pursuant to sections 415.400 to 415.430, or enforcing any other remedy provided by statute or contract.

2. Any late fee charged by the operator shall be stated in the rental agreement. No late fee shall be collected unless it is written in the rental agreement or an addendum to such agreement.

3. An operator may impose a reasonable late fee for each month an occupant does not pay rent when due.

4. A late fee of twenty dollars or twenty percent of the monthly rental amount, whichever is greater, for each late rental payment shall be deemed reasonable, and shall not constitute a penalty.

5. An operator may set a late fee other than that permitted in subsection 4 of this section if such fee is reasonable. The operator shall have the burden of proof that a higher late fee is reasonable.

6. The operator may recover all reasonable rent collection and lien enforcement expenses from the occupant in addition to any late fees incurred.

417.018. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

444.765. DEFINITIONS. — Wherever used or referred to in sections 444.760 to [444.789] **444.790**, unless a different meaning clearly appears from the context, the following terms mean:

(1) "Affected land", the pit area or area from which overburden shall have been removed, or upon which overburden has been deposited after September 28, 1971. When mining is conducted underground, affected land means any excavation or removal of overburden required to create access to mine openings, except that areas of disturbance encompassed by the actual underground openings for air shafts, portals, adits and haul roads in addition to disturbances within fifty feet of any openings for haul roads, portals or adits shall not be considered affected land. Sites which exceed the excluded areas by more than one acre for underground mining operations shall obtain a permit for the total extent of affected lands with no exclusions as required under sections 444.760 to [444.789] **444.790**;

(2) "Commission", the land reclamation commission in the department of natural resources;

(3) "Director", the staff director of the land reclamation commission;

(4) "Mineral", a constituent of the earth in a solid state which, when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form as a chemical, an energy source, or raw material for manufacturing or construction material. For the purposes of this section, this definition includes barite, tar sands, and oil shales, but does not include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas together with other chemicals recovered therewith;

(5) "Operator", any person, firm or corporation engaged in and controlling a surface mining operation;

(6) "Overburden", all of the earth and other materials which lie above natural deposits of minerals; and also means such earth and other materials disturbed from their natural state in the process of surface mining **other than what is defined in subdivision (4) of this section**;

(7) "Peak", a projecting point of overburden created in the surface mining process;

(8) "Pit", the place where minerals are being or have been mined by surface mining;

(9) "Refuse", all waste material directly connected with the cleaning and preparation of substance mined by surface mining;

(10) "Ridge", a lengthened elevation of overburden created in the surface mining process;

(11) "Site" or "mining site", any location or group of associated locations where minerals are being surface mined by the same operator;

(12) "Surface mining", the mining of minerals for commercial purposes by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed, and shall include mining of exposed natural deposits of such minerals over which no overburden lies and, after August 28, 1990, the surface effects of underground mining operations for such minerals.

444.767. POWERS OF COMMISSION — RULES, PROCEDURE, REVIEW. — The commission may:

(1) Adopt and promulgate rules and regulations pursuant to section 444.530 and chapter 536, RSMo, respecting the administration of sections 444.760 to [444.789] **444.790** and in conformity therewith;

(2) Encourage and conduct investigation, research, experiments and demonstrations, and collect and disseminate information relating to strip mining and reclamation and conservation of lands and waters affected by strip mining;

(3) Examine and pass on all applications and plans and specifications submitted by the operator for the method of operation and for the reclamation and conservation of the area of land affected by the operation;

(4) Make investigations and inspections which are necessary to ensure compliance with the provisions of sections 444.760 to [444.789] **444.790**;

(5) Conduct hearings [under] **pursuant to** sections 444.760 to [444.789] **444.790** and may administer oaths or affirmations and subpoena witnesses to the inquiry;

(6) Order, after hearing, the revocation of any permit and to cease and desist operations for failure to comply with any of the provisions of sections 444.760 to [444.789] **444.790** or any corrective order of the commission;

(7) Order forfeiture of any bond for failure to comply with any provisions of sections 444.760 to [444.789] **444.790** or any corrective order of the commission or other order of the commission;

(8) Cause to be instituted in any court of competent jurisdiction legal proceedings for injunction or other appropriate relief to enforce the provisions of sections 444.760 to [444.789] **444.790** and any order of the commission promulgated thereunder;

(9) Retain, employ, provide for, and compensate, within the limits of appropriations made for that purpose, such consultants, assistants, deputies, clerks, and other employees on a full- or part-time basis as may be necessary to carry out the provisions of sections 444.760 to [444.789] **444.790** and prescribe the times at which they shall be appointed and their powers and duties;

(10) Study and develop plans for the reclamation of lands that have been strip mined prior to September 28, 1971;

(11) Accept, receive and administer grants or other funds or gifts from public and private agencies and individuals, including the federal government, for the purpose of carrying out any of the functions of sections 444.760 to [444.789] **444.790**, including the reclamation of lands strip mined prior to August 28, 1990. The commission may promulgate such rules and regulations or enter into such contracts as it may deem necessary for carrying out the provisions of this subdivision;

(12) Budget and receive duly appropriated moneys for expenditures to carry out the provisions and purposes of sections 444.760 to [444.789] **444.790**;

(13) Prepare and file a biennial report with the governor and members of the general assembly;

(14) Order, after hearing, an operator to adopt such corrective measures as are necessary to comply with the provisions of sections 444.760 to [444.789] **444.790**.

444.770. PERMIT REQUIRED, WHEN — RELEASE OF CERTAIN BONDS. — 1. It shall be unlawful for any operator to engage in surface mining without first obtaining from the commission a permit to do so, in such form as is hereinafter provided, including any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons.

2. Sections 444.760 to [444.789] **444.790** shall apply only to those areas which are opened on or after January 1, 1972, or to the extended portion of affected areas extended after that date. The effective date of this section for minerals not previously covered under the provisions of sections 444.760 to [444.789] **444.790** shall be August 28, 1990.

3. All surface mining operations where land is affected after September 28, 1971, which are under the control of any government agency whose regulations are equal to or greater than those imposed by section 444.774, are not subject to the further provisions of sections 444.760 to [444.789] **444.790**, except that such operations shall be registered with the land reclamation commission.

4. Any portion of a surface mining operation which is subject to the provisions of sections 260.200 to 260.245, RSMo, and the regulations promulgated thereunder, shall not be subject to the provisions of sections 444.760 to [444.789] **444.790**, and any bonds or portions thereof

applicable to such operations shall be promptly released by the commission, and the associated permits canceled by the commission upon presentation to it of satisfactory evidence that the operator has received a permit [under] **pursuant to** section 260.205, RSMo, and the regulations promulgated thereunder. Any land reclamation bond associated with such released permits shall be retained by the commission until presentation to the commission of satisfactory evidence that:

(1) The operator has complied with sections 260.226 and 260.227, RSMo, and the regulations promulgated thereunder, pertaining to closure and post-closure plans and financial assurance instruments; and

(2) The operator has commenced operation of the solid waste disposal area or sanitary landfill as those terms are defined in chapter 260, RSMo.

5. Notwithstanding the provisions of subsection 1 of this section, any political subdivision which uses its own personnel and equipment or any private individual for personal use may conduct in-stream gravel operations without obtaining from the commission a permit to conduct such an activity.

444.772. PERMIT — APPLICATION, CONTENTS, FEES — AMENDMENT, HOW MADE — SUCCESSOR OPERATOR, DUTIES OF. — 1. Any operator desiring to engage in surface mining shall make written application to the director for a permit.

2. Application for permit shall be made on a form prescribed by the commission and shall include:

- (1) The name of all persons with any interest in the land to be mined;
- (2) The source of the applicant's legal right to mine the land affected by the permit;
- (3) The permanent and temporary post-office address of the applicant;
- (4) Whether the applicant or any person associated with the applicant holds or has held any other permits [under] **pursuant to** sections 444.500 to [444.789] **444.790**, and an identification of such permits;

(5) The written consent of the applicant and any other persons necessary to grant access to the commission or the director to the area of land affected under application from the date of application until the expiration of any permit granted under the application and thereafter for such time as is necessary to assure compliance with all provisions of sections 444.500 to [444.789] **444.790** or any rule or regulation promulgated [under] **pursuant to** them. Permit applications submitted by operators who mine an annual tonnage of less than ten thousand tons shall be required to include written consent from the operator to grant access to the commission or the director to the area of land affected;

(6) A description of the tract or tracts of land and the estimated number of acres thereof to be affected by the surface mining of the applicant for the next succeeding twelve months; and

(7) Such other information that the commission may require as such information applies to land reclamation.

3. The application for a permit shall be accompanied by a map in a scale and form specified by the commission by regulation.

4. The application shall be accompanied by a bond, security or certificate meeting the requirements of section 444.778 and a [basic permit fee of three hundred fifty dollars, plus acreage fee of thirty-five dollars for each acre or fraction thereof of the area of land to be affected by the operation, plus an annual fee of forty dollars for each site listed on the operator's permit application that will be mined during the permit year, which fees shall be paid before the permit required in this section shall be issued. A basic fee of one hundred dollars, plus an acreage fee of thirty-five dollars for each acre or fraction thereof of the area of land to be affected by the gravel mining operation shall be paid to the commission before the permit shall be issued for any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons. The commission shall by rule or regulation, pursuant to section 444.530, initially establish the fees as listed in this section. The commission may also raise the permit fee to no more than five hundred dollars. The issued permit shall be

valid for a period of one year from the date of its issuance unless sooner revoked or suspended as provided in sections 444.760 to 444.789] **permit fee approved by the commission not to exceed six hundred dollars. The commission may also require a fee for each site listed on a permit not to exceed three hundred dollars for each site. If mining operations are not conducted at a site for six months or more during any year, the fee for such site for that year shall be reduced by fifty percent. The commission may also require a fee for each acre bonded by the operator pursuant to section 444.778 not to exceed ten dollars per acre. If such fee is assessed, the per-acre fee on all acres bonded by a single operator that exceed a total of one hundred acres shall be reduced by fifty percent. In no case shall the total fee for any permit be more than two thousand five hundred dollars. Permit and renewal fees shall be established by rule and shall be set at levels that recover the cost of administering and enforcing sections 444.760 to 444.790, making allowances for grants and other sources of funds. The director shall submit a report to the commission and the public each year that describes the number of employees and the activities performed the previous calendar year to administer sections 444.760 to 444.790. For any operator of a gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, the total cost of submitting an application shall be three hundred dollars. The issued permit shall be valid from the date of its issuance until the date specified in the mine plan unless sooner revoked or suspended as provided in sections 444.760 to 444.790.**

5. An operator desiring to have his **or her** permit amended to cover additional land may file an amended application with the commission. Upon receipt of the amended application, and such additional fee and bond as may be required [under] **pursuant to** the provisions of sections 444.760 to [444.789] **444.790**, the director shall, if the applicant complies with all applicable regulatory requirements, issue an amendment to the original permit covering the additional land described in the amended application.

6. An operation may withdraw any land covered by a permit, excepting affected land, by notifying the commission thereof, in which case the penalty of the bond or security filed by the operator pursuant to the provisions of sections 444.760 to [444.789] **444.790** shall be reduced proportionately.

7. Where mining or reclamation operations on acreage for which a permit has been issued have not been completed [thereon during the permit year, the permit as to such acreage shall be renewed by applying on a permit renewal form furnished by the commission for an additional permit year and payment of a fee of three hundred fifty dollars plus forty dollars for each site listed on the permit renewal application that will be actively surface mined or reclaimed during the permit year], **the permit shall be renewed. The operator shall submit a permit renewal form furnished by the director for an additional permit year and pay a fee equal to an application fee calculated pursuant to subsection 4 of this section, but in no case shall the renewal fee for any operator be more than two thousand five hundred dollars.** For any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, the permit as to such acreage shall be renewed by applying on a permit renewal form furnished by the [commission] **director** for an additional permit year and payment of a fee of [one] **three** hundred dollars. [Such basic permit fee may be increased by the commission by rule or regulation not to exceed five hundred dollars, pursuant to section 444.767 to support the actual cost thereof of administering and enforcing the provisions of sections 444.760 to 444.789, making allowances for grants and other sources of funds and contingencies.] Upon receipt of the **completed** permit renewal [application] **form** and fee[,], from the operator, the director shall [issue a renewal certificate] **approve the renewal. With approval of the director and operator, the permit renewal may be extended for a portion of an additional year with a corresponding prorating of the renewal fee.**

8. Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the commission may release the first operator from all liability

[under] **pursuant to** sections 444.760 to [444.789] **444.790** as to that particular operation if both operators have been issued a permit and have otherwise complied with the requirements of sections 444.760 to [444.789] **444.790** and the successor operator assumes as part of his **or her** obligation [under] **pursuant to** sections 444.760 to [444.789] **444.790** all liability for the reclamation of the area of land affected by the former operator.

9. The application for a permit shall be accompanied by a plan of reclamation that meets the requirements of sections 444.760 to [444.789] **444.790** and the rules and regulations promulgated pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed method of operation, reclamation, and a conservation plan for the affected area including approximate dates and time of completion, and stating that the operation will meet the requirements of sections 444.760 to [444.789] **444.790**, and any rule or regulation promulgated [under] **pursuant to** them.

10. At the time that a permit [is applied for] **application is deemed complete by the director**, the operator shall publish a notice of intent to operate a surface mine in any newspaper [with a general circulation in the counties] **qualified pursuant to section 493.050, RSMo, to publish legal notices in any county** where the land is located. **If the director does not respond to a permit application within forty-five calendar days, the application shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four consecutive weeks beginning no more than ten days after the application is deemed complete. The operator shall also send notice of intent to operate a surface mine by certified mail to the governing body of the counties or cities in which the proposed area is located, and to the last known addresses of all record landowners of contiguous real property or real property located adjacent to the proposed mine plan area.** The [notice] **notices** shall include the name and address of the operator, a legal description consisting of county, section, township and range, the number of acres involved, a statement that the operator plans to mine a specified mineral during a specified time, and the address of the commission. **The notices shall also contain a statement that any person with a direct, personal interest in one or more of the factors the commission [is required to] may consider in issuing a permit may [make] request a public meeting, a public hearing or file written comments to the director [during the fifteen-day public notice period] no later than fifteen days following the final public notice publication date.**

11. The commission may approve a permit application or permit amendment whose operation[,] **or** reclamation [or conservation] plan deviates from the requirements of sections 444.760 to [444.789] **444.790** if it can be demonstrated by the operator that the conditions present at the surface mining location warrant an exception. The criteria accepted for consideration when evaluating the merits of an exception or variance to the requirements of sections 444.760 to [444.789] **444.790** shall be established by regulations.

12. Fees imposed pursuant to this section shall become effective August 28, 2001, and shall expire on December 31, 2007. No other provisions of this section shall expire.

444.773. DIRECTOR TO INVESTIGATE APPLICATIONS — RECOMMENDATION — PUBLIC MEETING OR HEARING — DENIAL OF PERMIT, WHEN. — 1. All applications for a permit shall be filed with the director, who shall promptly investigate the application and make a recommendation to the commission within [fifteen days after the application is received] **four weeks after the public notice period provided in section 444.772 expires** as to whether the permit should be issued or denied. If the director determines that the application has not fully complied with the provisions of section 444.772 or any rule or regulation promulgated [under] **pursuant to** that section, [he] **the director** shall recommend denial of the permit. The director shall consider any written comments when making his **or her** recommendation to the commission on the issuance or denial of the permit.

2. If the recommendation of the director is to deny the permit, a hearing as provided in sections 444.760 to [444.789] **444.790**, if requested by the applicant within fifteen days of the date of notice of recommendation of the director, shall be held by the commission.

3. If the recommendation of the director is for issuance of the permit, the director shall issue the permit without **a public meeting** or a hearing except that upon petition, received prior to the date of the notice of recommendation, from any person whose health, safety or livelihood [is affected by noncompliance with any applicable laws or regulations,] **will be unduly impaired by the issuance of this permit, a public meeting** or a hearing may be held. **If a public meeting is requested pursuant to this chapter and the applicant agrees, the director shall, within thirty days after the time for such request has passed, order that a public meeting be held. The meeting shall be held in a reasonably convenient location for all interested parties. The applicant shall cooperate with the director in making all necessary arrangements for the public meeting. Within thirty days after the close of the public meeting, the director shall recommend to the commission approval or denial of the permit. If the public meeting does not resolve the concerns expressed by the public, any person whose health, safety or livelihood will be unduly impaired by the issuance of such permit may make a written request to the land reclamation commission for a formal public hearing. The land reclamation commission may grant a public hearing to formally resolve concerns of the public. Any public hearing before the commission shall address one or more of the factors set forth in this section.**

4. In any hearing held pursuant to this section the burden of proof shall be on the applicant for a permit. **If the commission finds, based on competent and substantial scientific evidence on the record, that an interested party's health, safety or livelihood will be unduly impaired by the issuance of the permit, the commission may deny such permit. If the commission finds, based on competent and substantial scientific evidence on the record, that the operator has demonstrated, during the five year period immediately preceding the date of the permit application, a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance, the commission may deny such permit. In determining whether a reasonable likelihood of noncompliance will exist in the future, the commission may look to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. If a hearing petitioner or the commission demonstrates either present acts of noncompliance or a reasonable likelihood that the permit seeker or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection. In addition, such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri department of natural resources at any single facility in Missouri that resulted in harm to the environment or impaired the health, safety or livelihood of persons outside the facility. For any permit seeker that has not been in business in Missouri for the past five years, the commission may review the record of noncompliance in any state where the applicant has conducted business during the past five years. Any decision of the commission made pursuant to a hearing held [under] pursuant to this section is subject to judicial review as provided in chapter 536, RSMo. No judicial review shall be available, however, until and unless all administrative remedies are exhausted.**

444.774. RECLAMATION REQUIREMENTS AND CONDITIONS. — 1. Every operator to whom a permit is issued pursuant to the provisions of sections 444.760 to [444.789] **444.790** may engage in surface mining upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

(1) All ridges and peaks of overburden created by surface mining, except areas [where lakes may be formed under subdivision (7) of subsection 1 of this section] **meeting the qualifications of subdivision (4) of this subsection**, or where washing, cleaning or retaining ponds and reservoirs may be formed under subdivision (2) of subsection 1 of this section, shall be graded to a rolling topography traversable by farm machinery, but such slopes need not be reduced to less than the original grade of that area prior to mining, and the slope of the ridge of overburden resulting from a box cut need not be reduced to less than twenty-five degrees from horizontal whenever the same cannot be practically incorporated into the land reclaimed for wildlife purposes [under] **pursuant to** subdivision (4) of **this** subsection [1 of this section]. In surface mining the operator shall remove all debris and materials not allowed by the reclamation plan before the bond or any portion thereof may be released;

(2) As a means of controlling damaging [runoff] **erosion**, the [commission] **director** may require the operator to construct terraces or use such other measures and techniques as are necessary to control soil erosion and siltation on reclaimed land. **Such erosion control measures and techniques may also be required on overburden stockpiles if the erosion is causing environmental damage outside the permit area.** In determining the grading requirements to restore barite pit areas, the sidewalls of the excavation shall be graded to a point where it blends with the surrounding countryside, but in no case should the contour be such that erosion and siltation be increased;

(3) In the surface mining of tar sands, the operator shall recover and collect all spent sands and other refuse yielded from the processing of tar sands, whether such spent sands and refuse are produced at the surface mine or elsewhere, in the manner prescribed by the commission as conditions of the permit, and shall finally dispose of such spent sands and refuse in the manner prescribed by the commission as conditions of the permit and in accordance with the provisions of sections 444.760 to [444.789] **444.790**;

(4) Up to and including twenty-five percent of the total acreage to be reclaimed each year need not be graded to a rolling topography if the land is reclaimed for wildlife purposes as required by the commission, except that all peaks and ridges shall be leveled off to a minimum width of thirty feet or one-half the diameter of the base of the pile at the original ground surface whichever is less;

(5) Surface mining operations that remove and do not replace the lateral support shall not, unless mutually agreed upon by the operator and the adjacent property owner, remove the lateral support in the vicinity of any established right-of-way line of any public road, street or highway closer than a distance equal to twenty-five feet plus one and one-half times the depth of the unconsolidated material from such right-of-way line to the beginning of the excavation; except that, unless granted a variance by the commission, the minimum distance is fifty feet. The provisions of this subdivision shall apply to all existing surface mining operations beginning August 28, 1990, except as provided in subsection 2 of section 444.770;

(6) If surface mining is or has been conducted up to the minimum distance as defined in subdivision (5) of **this** subsection [1 of this section] along an established right-of-way line of any public road, street or highway, a barrier or berm of adequate height shall be placed or constructed along the perimeter of the excavation. Adequate height shall mean a height of no less than three feet. Such barriers or berms shall not be required if barriers, berms or guardrails already exist on the adjoining right-of-way. Barriers or berms of adequate height may also be required by the commission when surface mining is or has been conducted up to the minimum distance as defined in subdivision (5) of **this** subsection [1 of this section] along other property lines, but only as necessary to mitigate serious and obvious threats to public safety;

(7) The operator may construct earth dams to form lakes in pits resulting from the final cut in a mining area; except that, the formation of the lakes shall not interfere with underground or other mining operations or damage adjoining property and shall comply with the requirements of subdivision (8) of **this** subsection [1 of this section];

(8) The operator shall cover the exposed face of a mineral seam where acid forming materials are present, to a depth of not less than two feet with earth that will support plant life or with a permanent water impoundment, terraced or otherwise so constructed as to prevent a constant inflow of water from any stream and to prevent surface water from flowing into such impoundment in such amounts as will cause runoff or spillage from said impoundment in a volume which will cause kills of fish or animals downstream. The operator shall cover an exposed deposit of tar sands, including an exposed face thereof, to a depth of not less than two feet with earth that will support plant life, and in addition may cover such deposit or face with a permanent water impoundment as provided above; however, no water impoundment shall be so constructed as to allow a permanent layer of oil or other hydrocarbon to collect on the surface of such impoundment in an amount which will adversely affect fish, wildfowl and other wildlife in or upon such impoundment;

(9) The operator shall reclaim all affected lands except as otherwise provided in sections 444.760 to [444.789] **444.790**. The operator shall determine on company-owned land, and with the landowners on leased land for leases that are entered into after August 28, 1990, which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial or other use including food, shelter, and ground cover for wildlife;

(10) The operator, with the approval of the commission, shall sow, set out or plant upon the affected land, seeds, plants, cuttings of trees, shrubs, grasses or legumes. The plantings or seedings shall be appropriate to the type of reclamation designated by the operator on company-owned land and with the owner on leased land for leases entered into after August 28, 1990, and shall be based upon sound agronomic and forestry principles;

(11) Surface mining operations conducted in the flood plains of streams and rivers, and subject to periodic flooding, may be exempt from the grading requirements contained in this section if it can be demonstrated to the commission that such operations will be unsafe to pursue or ineffective in achieving reclamation required in this section because of the periodic flooding;

(12) Such other requirements as the commission may prescribe by rule or regulation to conform with the purposes and requirements of sections 444.760 to [444.789] **444.790**.

2. An operator shall commence the reclamation of the area of land affected by its operation as soon as possible after the [beginning] **completion** of surface mining of [that] **viable mineral reserves in any portion of the permit** area in accordance with the plan of reclamation required by [sections 444.760 to 444.789] **subsection 9 of section 444.772**, the rules and regulations of the commission, and the conditions of the permit; and shall complete]. Grading **shall be completed** within twelve months after [the expiration date of the permit] **mining of viable mineral reserves is complete in that portion of the permit area based on the operator's prior mining practices at that site. Mining shall not be deemed complete if the operator can provide credible evidence to the director that viable mineral reserves are present.** The seeding and planting of supporting vegetation, **as provided in the reclamation plan**, shall be completed within twenty-four months after [the expiration date of the permit] with **mining has been completed** survival of such supporting vegetation by the second growing season.

3. With the approval of the [commission] **director**, the operator may substitute for all or any part of the affected land to be reclaimed, an equal number of acres of land previously mined and not reclaimed. If any area is so substituted the operator shall submit a map **and reclamation plan** of the substituted area, and this map **and reclamation plan** shall conform to all requirements with respect to other maps **and reclamation plan** required by section 444.772. The operator shall be relieved of all obligations [under] **pursuant to** sections 444.760 to [444.789] **444.790** with respect to the land for which substitution has been permitted. **On leased**

land, the landowner shall grant written approval to the operator for substitutions made pursuant to this subsection.

4. The operator shall file a report with the commission within sixty days after the date of expiration of a permit stating the exact number of acres of land affected by the operation, the extent of the reclamation already accomplished, and such other information as may be required by the commission.

5. The operator shall ensure that all affected land where vegetation is to be reestablished is covered with enough topsoil or other approved material in order to provide a proper rooting medium. **No topsoil or other approved material is required to be placed on areas described in subdivision (4) of subsection 1 of this section or on any areas to be reclaimed for industrial uses as specified in the reclamation plan.**

6. The commission may grant such additional time for meeting with the completion dates required by sections 444.760 to [444.789] **444.790** as are necessary due to an act of God, war, strike, riot, catastrophe, or other good cause shown.

444.775. RELEASE OF BOND, CONDITIONS — PETITION, HEARING — ADMINISTRATIVE REVIEW. — 1. Prior to release of the bond or any portion thereof, application shall be made by the operator to the commission, either with the completion of the report referred to in section 444.774 or subsequent to such report, for release of the bond.

2. The commission shall cause to have investigated the status of reclamation on land for which a release application has been filed.

3. **If the director or** the commission determines that the bond, or any portion thereof, should be released, an order may be so issued without hearing. If an owner of the land that has been affected by surface mining files a petition in opposition to the release of the bond within thirty days of the receipt date of the application for release, a hearing may be held, if the bond release criteria does not meet permit standards. A hearing may also be held if the [staff of the commission] **director**, within thirty days of the receipt date of the application for release, recommends denial of the application following its investigation. In such cases, the commission may hold a hearing as provided in section 444.789 and enter such order as shall be appropriate.

4. If the commission determines that the bond or any portion thereof should not be released, the commission shall issue an order to that effect with the reasons for the order and shall give notice to the operator. A hearing shall be held by the commission as provided in section 444.789 if requested by the operator within thirty days of the date of notice of the order. At such hearing burden of proof shall be on the operator. After hearing, the commission shall enter such order as shall be appropriate and shall give notice to the operator.

5. All final decisions or orders of the commission shall be subject to judicial review as provided for in chapter 536, RSMo. No judicial review shall be available, however, until and unless all administrative remedies are exhausted.

444.777. ENTRY UPON LANDS AND INSPECTION BY COMMISSION MEMBERS — WARRANTS TO ISSUE. — Commission members and authorized representatives of the commission may at all reasonable times enter upon any lands that have been or are being surface mined for the purpose of inspection to determine whether the provisions of sections 444.760 to [444.789] **444.790** have been complied with. No person shall refuse entry or access requested for purposes of inspection, to any member of the commission or authorized representative who presents appropriate credentials, nor obstruct or hamper any such person in carrying out the inspection. A suitably restricted search warrant, describing the place to be searched and showing probable cause in writing and upon written oath or affirmation by any member of the commission or authorized representative, shall be issued by any circuit judge or associate circuit judge in the county where the search is to be made.

444.778. BOND — FORM — AMOUNT — DURATION — FORFEITURE — POWER OF RECLAMATION. — 1. Any bond herein provided to be filed with the commission by the operator shall be in such form as the director prescribes, payable to the state of Missouri, conditioned that the operator shall faithfully perform all requirements of sections 444.760 to [444.789] **444.790** and comply with all rules of the commission made in accordance with the provisions of sections 444.760 to [444.789] **444.790**. The bond shall be signed by the operator as principal, and by a good and sufficient corporate surety, licensed to do business in this state, as surety. The operator shall file with the commission a bond payable to the state of Missouri with surety in the penal sum of eight thousand dollars for each permit up to eight acres and five hundred dollars for each acre thereafter that is to be mined. In addition, for each acre or portion thereof where topsoil has been removed from the site, an additional bond of four thousand five hundred dollars per acre shall be posted with the commission for each acre or portion thereof which will be revegetated, conditioned upon the faithful performance of the requirements set forth in sections 444.760 to [444.789] **444.790** and of the rules and regulations of the commission. In lieu of a surety bond, the operator may furnish a bond secured by a personal certificate of deposit or irrevocable letter of credit in an amount equal to that of the required surety bond on conditions as prescribed by the commission. For any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, such operator shall deposit a bond with the commission in the penal sum of five hundred dollars for each acre or portion thereof of land proposed thereafter by the operator to be subjected to surface mining for the mining permit year.

2. The bond shall remain in effect until the mined acreages have been reclaimed, approved and released by the commission. Forfeiture of such bond may be cause for denial of future permit applications.

3. A bond filed as above prescribed shall not be canceled by the surety except after not less than ninety days' notice to the commission and, in any case, not as to the acreage affected prior to the expiration of the notice period.

4. If the license to do business in this state of any surety upon a bond filed with the commission pursuant to sections 444.760 to [444.789] **444.790** shall be suspended, revoked, or canceled, or if the surety should act to cancel the bond, the operator, within sixty days after receiving notice thereof from the commission, shall substitute for such surety a good and sufficient corporate surety licensed to do business in this state or a bond secured by a certificate of deposit. Upon failure of the operator to make substitution of surety as herein provided, the commission shall have the right to suspend the permit of the operator until such substitution has been made.

5. The commission shall give written notice to the operator of any violation of sections 444.760 to [444.789] **444.790** or noncompliance with any of the rules and regulations promulgated by the commission hereunder and if corrective measures, approved by the commission, are not commenced within ninety days, the commission may proceed as provided in section 444.782 to request forfeiture of the bond.

6. The commission shall have the power to reclaim, in keeping with the provisions of sections 444.760 to [444.789] **444.790**, any affected land with respect to which a bond has been forfeited. The commission and any other agency and any contractor under a contract with the commission shall have reasonable right of access to the land affected to carry out such reclamation. The operator shall also have the right of access to the land affected to carry out such reclamation and shall notify the landowner on lease holdings that such right exists.

7. Whenever an operator shall have completed all requirements [under] **pursuant to** the provisions of sections 444.760 to [444.789] **444.790** as to any affected land, he **or she** shall notify the commission thereof. If the commission determines that the operator has completed the requirements, the commission shall release the operator from further obligations regarding the affected land and the penalty of the bond shall be reduced proportionately.

444.782. ATTORNEY GENERAL TO REPRESENT COMMISSION, WHEN — HEARINGS ON BOND FORFEITURE, NOTICE. — The attorney general, upon request of the commission, shall institute proceedings to have the bond of the operator forfeited for violation by the operator of any of the provisions of sections 444.760 to [444.789] **444.790**. Before making such request of the attorney general, the commission shall notify the operator in writing of the alleged violation or noncompliance and shall afford the operator the right to appear before the commission at a hearing to be held not less than thirty days after the receipt of such notice by the operator. At the hearing the operator may present for the consideration of the commission, statements, documents and other information with respect to the alleged violation. After the conclusion of the hearing, the commission shall either withdraw the notice of violation or shall request the attorney general to institute proceedings to have the bond of the operator forfeited as to the land involved.

444.784. COMMISSION RULES AND REGULATIONS AUTHORIZED — DELEGATION OF AUTHORITY — FORFEITURE FUNDS, WHERE EXPENDED. — The commission may adopt and promulgate reasonable rules and regulations respecting the administration of sections 444.760 to [444.789] **444.790**. Any act authorized to be done by the director may be performed by any employee of the commission when designated by the director. All forfeitures collected after January 1, 1972, as provided in sections 444.760 to [444.789] **444.790**, shall be expended to reclaim and rehabilitate land affected in accordance with the provisions of sections 444.760 to [444.789] **444.790**. Insofar as is reasonably practicable, the funds shall be expended upon the lands for which the permit was issued and for which the bond was given.

444.786. OPERATION WITHOUT PERMIT PROHIBITED, PENALTY. — Any person required by sections 444.760 to [444.789] **444.790** to have a permit who engages in the mining of minerals without previously securing a permit to do so as prescribed by sections 444.760 to [444.789] **444.790**, is guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than one thousand dollars. Each day of operation without the permit required by sections 444.760 to [444.789] **444.790** will be deemed a separate violation.

444.787. INVESTIGATION BY COMMISSION, ATTORNEY GENERAL TO FILE SUIT — FORMAL COMPLAINT PROCEDURE. — 1. The commission shall investigate surface mining operations in the state of Missouri. If the investigations show that surface mining is being or is going to be conducted without a permit in violation of sections 444.760 to [444.789] **444.790** or in violation of any revocation order, and the commission has not issued a variance, the commission shall request the attorney general to file suit in the name of the state of Missouri for an injunction and civil penalties not to exceed one thousand dollars per day for each day, or part thereof, the violation has occurred. Suit may be filed either in the county where the violation occurs or in Cole County.

2. If the investigation shows that a surface mining operation for which a permit has been issued is being conducted contrary to or in violation of any provision of sections 444.760 to [444.789] **444.790** or any rule or regulation promulgated by the commission or any condition imposed on the permit or any condition of the bond, the director may by conference, conciliation and persuasion endeavor to eliminate the violation. If the violation is not eliminated, the director shall provide to the operator by registered mail a notice describing the nature of the violation, corrective measures to be taken to abate the violation, and the time period for abatement. Within fifteen days of receipt of this notice the operator may request an informal conference with the director to contest the notice. The director may modify, vacate or enforce the notice and shall provide notice to the operator of his action within thirty days of the informal conference. If the operator fails to comply with the notice, as amended by the director, in the time prescribed within the notice, the director shall file a formal complaint with the commission for suspension or revocation of the permit, and for forfeiture of bond, or for appropriate corrective measures. When the director files a formal complaint, the commission shall cause to have issued and served

upon the person complained against a written notice together with a copy of the formal complaint, which shall specify the provision of sections 444.760 to [444.789] **444.790** or the rule or regulation or the condition of the permit or of the bond of which the person is alleged to be in violation, a statement of the manner in, and the extent to which, the person is alleged to be in violation. The person complained against may, within fifteen days of receipt of the complaint, request a hearing before the commission. Such hearing shall be conducted in accordance with the provisions of section 444.789.

3. After due consideration of the hearing record, or upon failure of the operator to request a hearing by the date specified in the complaint, the commission shall issue and enter such final order and make such final determination as it shall deem appropriate under the circumstances. Included in such order and determination may be the revocation of any permit and to cease and desist operations. The commission shall immediately notify the respondent of its decision in writing by certified mail.

4. Any final order or determination or other final action by the commission shall be approved in writing by at least four members of the commission. The commission shall not issue any permit to any person who has had a permit revoked until the violation that caused the revocation is corrected to the satisfaction of the commission. Any final order of the commission can be appealed in accordance with chapter 536, RSMo.

444.788. CIVIL ACTION. — In the event the commission determines that any provisions of sections 444.760 to [444.789] **444.790**, rules and regulations promulgated thereunder, permits issued, conditions of the bond, or any final order or determination made by the commission or the director is being violated, the commission may, either after judicial review or simultaneously with judicial review, cause to have instituted a civil action, either in the county where the violation occurs or in Cole County, for injunctive relief, for collection of the civil penalty and for forfeiture of bond. The attorney general shall bring such action, at the request of the commission, in the name of the state of Missouri.

444.789. ADMINISTRATIVE PROCEDURE — INAPPLICABILITY TO PUBLIC MEETINGS. —

1. Any hearing [under] **pursuant to** this section shall be of record and shall be a contested case.

2. Parties to such a hearing may make oral argument, introduce testimony and evidence, and cross-examine witnesses.

3. The hearing shall be before the commission or the chairman of the commission may designate one commission member as hearing officer, or may appoint a member in good standing of the Missouri Bar as hearing officer to hold the hearing and make recommendations to the commission, but the commission shall make the final decision thereon and any member participating in the decision shall review the record before making the decision.

4. In any such hearing any member of the commission may issue in the name of the commission notice of hearing and subpoenas as provided for in section 536.077, RSMo.

5. The rules of discovery that apply to any civil case shall apply to hearings held by the commission.

6. The administrative procedures in this section shall not apply to the public meetings pursuant to section 444.773.

620.1580. ADVISORY COMMITTEE FOR ELECTRONIC COMMERCE ESTABLISHED, MEMBERS, TERMS, MEETINGS. — **1. There is hereby established within the department of economic development the "Advisory Committee for Electronic Commerce". The purpose of the committee shall be to advise the various agencies of the state of Missouri on issues related to electronic commerce.**

2. The committee shall be composed of thirteen members, who shall be appointed by the director of the department of economic development, as follows:

(1) One member shall be the director of the department of economic development;

- (2) One member shall be an employee of the department of revenue;
 - (3) One member shall be an employee of the department of labor and industrial relations;
 - (4) One member shall be the secretary of state;
 - (5) One member shall be the chief information officer for the office of technology;
 - (6) Seven members shall be from the business community, with at least one such member being from an organization representative of industry, and with at least one such member being from an organization representative of independent businesses, and with at least one such member being from an organization representative of retail business, and with at least one such member being from an organization representative of local or regional commerce; and
 - (7) One member shall be from the public at large;
3. The members of the committee shall serve for terms of two years duration, and may be reappointed at the discretion of the director of the department of economic development. Members of the committee shall not be compensated for their services, but shall be reimbursed for actual and necessary expenses incurred in the performance of their service on the committee.
4. The director of the department of economic development shall serve as chair of the committee and shall designate an employee or employees of the department of economic development to staff the committee, or to chair the committee in the director's absence.
5. The committee shall meet at such places and times as are designated by the director of the department of economic development, but shall not meet less than twice per calendar year.

643.220. MISSOURI EMISSIONS BANKING AND TRADING PROGRAM ESTABLISHED BY COMMISSION — PROMULGATION OF RULES. — 1. The commission shall promulgate rules establishing a "Missouri Air Emissions Banking and Trading Program" to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency pursuant to the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended. In promulgating such rules, the commission may consider, but not be limited to, inclusion of provisions concerning the definition and transfer of air emissions reduction credits or allowances between mobile sources, area sources and stationary sources, the role of offsets in emissions trading, interstate and regional emissions trading and the mechanisms necessary to facilitate emissions trading and banking, including consideration of other contiguous states authority.

2. The program shall:
- (1) Not include any provisions prohibited by federal law;
 - (2) Be applicable to criteria pollutants and their precursors as defined by the federal Clean Air Act, as amended;
 - (3) Not allow banked or traded emission credit to be used to meet federal Clean Air Act requirements for hazardous air pollutants standards under Clean Air Act, Section 112;
 - (4) Allow the banking and trading of criteria pollutants that are also hazardous air pollutants under Section 112 of the federal Clean Air Act, to the extent that verifiable emission reductions achieved are in excess of those required to meet hazardous air pollutant emission standards promulgated under Section 112 of the Clean Air Act;
 - (5) Authorize the direct trading of air emission reduction credits or allowances between nongovernmental parties, subject to the approval of the department;
 - (6) Allow net air emission reductions from federally-approved permit conditions to be transferred to other sources for use as offsets required by the federal Clean Air Act in nonattainment areas to allow construction of new emission sources; and

(7) Not allow banking of emission reductions unless they are in excess of reductions required by Missouri or federal regulations or implementation plans.

3. The department shall verify, certify or otherwise approve the amount of an air emissions reduction credit before such credit is banked. Banked credits may be used, traded, sold or otherwise expended within the same nonattainment area, maintenance area or air quality modeling domain in which the air emissions reduction occurred, provided that there will be no resulting adverse impact of air quality.

4. To be creditable for deposit in the Missouri air emissions bank, a reduction in air emissions shall be permanent, quantifiable and federally approved.

5. To be tradeable between air emission sources, air emission reduction credits shall be based on air emission reductions that occur after the effective date of this section.

6. In nonattainment areas, the bank of criteria pollutants and their precursors shall be reduced by three percent annually for as long as the area is classified as a nonattainment area.

644.038. CERTIFICATION OF NATIONWIDE PERMIT BY DEPARTMENT, WHEN. — Where applicable, under Section 404 of the federal Clean Water Act and where the U.S. Army Corps of Engineers has determined that a nationwide permit may be utilized for the construction of highways and bridges approved by the Missouri highways and transportation commission, the department shall certify without conditions such nationwide permit as it applies to impacts on all waters of the state.

Approved July 12, 2001

HB 454 [HB 454]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a good cause exception for removal of a guardian upon dissolution of marriage.

AN ACT to repeal section 475.110, RSMo 2000, relating to the removal of a guardian or conservator, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

475.110. Removal of guardian or conservator — incapacitated or disabled person, continuation of guardianship after dissolution of marriage, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 475.110, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 475.110, to read as follows:

475.110. REMOVAL OF GUARDIAN OR CONSERVATOR — INCAPACITATED OR DISABLED PERSON, CONTINUATION OF GUARDIANSHIP AFTER DISSOLUTION OF MARRIAGE, WHEN. —

1. When a minor ward has attained the age of fourteen years, the guardian of his **or her** person may be removed on petition of the ward to have another person appointed guardian if it is for the best interests of the ward that such other person be appointed. When the spouse of an incapacitated or disabled person is appointed his **or her** guardian or conservator, such spouse shall be removed as guardian or conservator upon dissolution of his **or her** marriage with the

incapacitated or disabled person. A guardian or conservator may also be removed on the same grounds as is provided in section 473.140, RSMo, for the removal of personal representatives.

2. Notwithstanding subsection 1 of this section, a spouse whose marriage to the ward was dissolved may petition the court to remain as or be reappointed guardian or conservator of the incapacitated or disabled person in accordance with section 475.115.

Approved July 2, 2001

HB 458 [HB 458]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits the use of flashing signals by church buses.

AN ACT to repeal section 307.100, RSMo 2000, relating to the use of warning signals on motor vehicles, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

307.100. Limitations on lamps other than headlamps — flashing signals prohibited except on specified vehicles — penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 307.100, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 307.100, to read as follows:

307.100. LIMITATIONS ON LAMPS OTHER THAN HEADLAMPS — FLASHING SIGNALS PROHIBITED EXCEPT ON SPECIFIED VEHICLES — PENALTY. — 1. Any lighted lamp or illuminating device upon a motor vehicle other than headlamps, spotlamps, front direction signals or auxiliary lamps which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle. Alternately flashing warning signals may be used on school buses when used for school purposes and on motor vehicles when used to transport United States mail from post offices to boxes of addressees thereof and on emergency vehicles as defined in section 304.022, RSMo, **and on buses owned or operated by churches, mosques, synagogues, temples or other houses of worship**, but are prohibited on other motor vehicles, motorcycles and motor-drawn vehicles except as a means for indicating a right or left turn.

2. Notwithstanding the provisions of section 307.120, violation of this section is an infraction.

Approved July 13, 2001

HB 459 [SCS HB 459]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the law regarding responsibilities and obligations of reinsurers and liquidators.

AN ACT to repeal section 375.1220, RSMo 2000, relating to insurer liquidation law, and to enact in lieu thereof one new section relating to the same subject, with a termination date and an emergency clause.

SECTION

A. Enacting clause.

375.1220. Claim disputes — duty of liquidator — estimates allowed, when — commutation and release.

375.1220. Claim disputes — duty of liquidator — estimates allowed, when — commutation and release.

B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 375.1220, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 375.1220, to read as follows:

375.1220. CLAIM DISPUTES — DUTY OF LIQUIDATOR — ESTIMATES ALLOWED, WHEN — COMMUTATION AND RELEASE. — **1.** The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as the liquidator shall deem necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be allowed, under the supervision of the court, except where the liquidator is required by law to accept claims as settled by any person or organization. Unresolved disputes shall be determined pursuant to section 375.1214. No claim under a policy of insurance shall be allowed for any amount in excess of the applicable policy limits or without regard to policy deductibles.

2. If the fixing or liquidation of any claim or claims would unduly delay the administration of the liquidation or if the administrative expense of processing and adjudication of a claim or group of claims of a similar type would be unduly excessive when compared with the moneys which are estimated to be available for distribution with respect to such claim or group of claims, the determination and allowance of such claim or claims may be made by an estimate. Any such estimate shall be based upon an actuarial evaluation made with reasonable actuarial certainty or upon another accepted method of valuing claims with reasonable certainty.

3. The estimation of contingent liabilities permitted by subsection 2 of this section or any other section of this chapter may be used for the purpose of fixing a creditor's claim in the estate, and for determining the percentage of partial or final dividend payments to be paid to creditors with reported allowed claims. However, nothing in subsection 2 of this section or any other section in this chapter shall be construed as authorizing the receiver, or any other entity, to compel payment from a reinsurer on the basis of estimated incurred but not reported losses and, except with respect to claims made pursuant to section 375.1212, outstanding reserves. Nothing in this subsection shall be construed to impair any obligation arising pursuant to any insurance agreement.

4. Notwithstanding the provisions of this section or any other section of this chapter to the contrary, the liquidator may negotiate a voluntary commutation and release of all obligations arising from reinsurance contracts or other agreements.

5. The provisions of subsection 3 of this section shall not apply to and have no force and effect regarding any formal delinquency proceeding in which, prior to August 28, 1999, the court in which such proceeding was or is pending issued any order or decree construing or applying the provisions of this section.

6. Subsections 3 and 5 of this section shall terminate on December 31, 2005.

[375.1220. CLAIM DISPUTES — DUTY OF LIQUIDATOR — ESTIMATES ALLOWED, WHEN — COMMUTATION AND RELEASE.] — 1. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as the liquidator shall deem necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be allowed, under the supervision of the court, except where the liquidator is required by law to accept claims as settled by any person or organization. Unresolved disputes shall be determined pursuant to section 375.1214. No claim under a policy of insurance shall be allowed for any amount in excess of the applicable policy limits or without regard to policy deductibles.

2. If the fixing or liquidation of any claim or claims would unduly delay the administration of the liquidation or if the administrative expense of processing and adjudication of a claim or group of claims of a similar type would be unduly excessive when compared with the moneys which are estimated to be available for distribution with respect to such claim or group of claims, the determination and allowance of such claim or claims may be made by an estimate. Any such estimate shall be based upon an actuarial evaluation made with reasonable certainty or upon another accepted method of valuing claims with reasonable certainty.

3. The estimation of contingent liabilities permitted by subsection 2 of this section or any other section of this chapter may be used for the purpose of fixing a creditor's claim in the estate, and for determining the percentage of partial or final divided payments to be paid to creditors with reported allowed claims. However, nothing in subsection 2 of this section or any other section in this chapter shall be construed as authorizing the receiver, or any other entity, to compel payment from a reinsurer on the basis of estimated incurred but not reported losses and, except with respect to claims made pursuant to section 375.1212, outstanding reserves. Nothing in this subsection shall be construed to impair any obligation arising pursuant to any insurance agreement.

4. Notwithstanding the provisions of this section or any other section of this chapter to the contrary, the liquidator may negotiate a voluntary commutation and release of all obligations arising from reinsurance contracts or other agreements.

5. The provisions of this section shall not apply to and have no force and effect regarding any formal delinquency proceeding in which, prior to the effective date of this act, the court in which such proceeding was or is pending issued any order or decree construing or applying the provisions.

6. Subsections 3, 4 and 5 of this section shall terminate on December 31, 2000.]

SECTION B. EMERGENCY CLAUSE. — Because of the need to accurately estimate contingent liabilities in order to fix a creditor's claim in a liquidation estate, section 375.1220 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 375.1220 of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2001

HB 470 [HB 470]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates Sgt. Robert Kimberling Memorial Highway.

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the creation of a "Sergeant Robert Kimberling Memorial Highway".

SECTION

A. Enacting clause.

227.318. Sergeant Robert Kimberling Memorial Highway designated, Interstate 29, Buchanan County — signs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.318, to read as follows:

227.318. SERGEANT ROBERT KIMBERLING MEMORIAL HIGHWAY DESIGNATED, INTERSTATE 29, BUCHANAN COUNTY — SIGNS. — **The portion of interstate highway 29 in Buchanan County bounded on the south by Frederick Boulevard and on the north by United States highway 169 north shall be designated the "Sergeant Robert Kimberling Memorial Highway", and two signs bearing this name shall be erected. One sign shall be placed north of the Frederick Boulevard interchange adjacent to the northbound lane of interstate highway 29, and the other shall be placed north of the United States highway 169 north overpass adjacent to the southbound lane.**

Approved July 2, 2001

HB 471 [CCS SCS HB 471]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds the drug "ecstasy" to drug trafficking statutes.

AN ACT to repeal sections 195.010, 195.017, 195.070, 195.222, 195.223, 195.235, 195.246, 195.400 and 570.030, RSMo 2000, and to enact in lieu thereof fifteen new sections relating to drug trafficking, with penalty provisions.

SECTION

A. Enacting clause.

195.010. Definitions.

195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually.

195.070. Who may prescribe.

195.222. Trafficking drugs, first degree — penalty.

195.223. Trafficking drugs, second degree — penalty.

195.235. Unlawful delivery or manufacture of drug paraphernalia, penalty — possession is prima facie evidence of intent to violate section.

195.246. Possession of ephedrine, penalty — possession is prima facie evidence of intent to violate section.

195.400. Reports required, exceptions, penalties — person, defined — list of regulated chemicals — applicability exclusions.

195.417. Limit on over-the-counter sale of methamphetamine, exceptions — violations, penalty.

195.418. Limitations on the retail sale of methamphetamine precursor drugs — violations, penalty.

441.236. Disclosures required for transfer of property where methamphetamine production occurred.

478.009. Drug courts coordinating commission established, members, meetings — fund created.

537.297. Anhydrous ammonia tampering — definitions — liability — immunity from liability, when.

570.030. Stealing — penalties.

578.154. Possession of anhydrous ammonia, crime of — penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 195.010, 195.017, 195.070, 195.222, 195.223, 195.235, 195.246, 195.400 and 570.030, RSMo 2000, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 195.010, 195.017, 195.070, 195.222, 195.223, 195.235, 195.246, 195.400, 195.417, 195.418, 441.236, 478.009, 537.297, 570.030 and 578.154, to read as follows:

195.010. DEFINITIONS. — The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

(5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;

(6) "Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

(7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

(9) "Dentist", a person authorized by law to practice dentistry in this state;

(10) "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

a. Amphetamine or any of its isomers;

b. Any salt of amphetamine or any salt of an isomer of amphetamine; or
c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses;

(12) "Distribute", to deliver other than by administering or dispensing a controlled substance;

(13) "Distributor", a person who distributes;

(14) "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include devices or their components, parts or accessories;

(15) "Drug-dependent person", a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

(16) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

(17) "Drug paraphernalia", all equipment, products, **substances** and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parentally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance;

In determining whether an object, **product, substance or material** is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of sections 195.005 to 195.425;

(d) The proximity of the object to controlled substances or imitation controlled substances;

(e) The existence of any residue of controlled substances or imitation controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its use;

- (i) National or local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

- (m) The existence and scope of legitimate uses for the object in the community;

- (n) Expert testimony concerning its use;

(o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;

(18) "Federal narcotic laws", the laws of the United States relating to controlled substances;

(19) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

(20) "Immediate precursor", a substance which:

- (a) The state department of health has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

- (b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

- (c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;

(21) "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

- (a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

- (b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

- (c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

- (d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

- (e) The proximity of the substances to controlled substances;

- (f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

(22) "Laboratory", a laboratory approved by the department of health as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(23) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug;

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice, or

(b) By a practitioner or his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24) "Marijuana", all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to *Cannabis Sativa* L., *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25) **"Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;**

(26) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

[(26)] (27) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health;

[(27)] (28) "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

[(28)] (29) "Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

(30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144, RSMo, of a drug other than a controlled substance;

[(29)] **(31) "Person",** an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity;

[(30)] **(32) "Pharmacist",** a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

[(31)] **(33) "Poppy straw",** all parts, except the seeds, of the opium poppy, after mowing;

[(32)] **(34) "Possessed" or "possessing a controlled substance",** a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

[(33)] **(35) "Practitioner",** a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

[(34)] **(36) "Production",** includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

[(35)] **(37) "Registry number",** the number assigned to each person registered under the federal controlled substances laws;

[(36)] **(38) "Sale",** includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

[(37)] **(39) "State"** when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

[(38)] **(40) "Ultimate user",** a person who lawfully possesses a controlled substance or an imitation controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

[(39)] **(41) "Wholesaler",** a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY. — 1. The department of health shall place a substance in Schedule I if it finds that the substance:

- (1) Has high potential for abuse; and
- (2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

- (1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (a) Acetyl-alpha-methylfentanyl;
- (b) Acetylmethadol;
- (c) Allylprodine;
- (d) Alphacetylmethadol;
- (e) Alphameprodine;
- (f) Alphamethadol;
- (g) Alpha-methylfentanyl;
- (h) Alpha-methylthiofentanyl;
- (i) Benzethidine;
- (j) Betacetylmethadol;
- (k) Beta-hydroxyfentanyl;
- (l) Beta-hydroxy-3-methylfentanyl;
- (m) Betameprodine;
- (n) Betamethadol;
- (o) Betaprodine;
- (p) Clonitazene;
- (q) Dextromoramide;
- (r) Diampromide;
- (s) Diethylthiambutene;
- (t) Difenoxin;
- (u) Dimenoxadol;
- (v) Dimepheptanol;
- (w) Dimethylthiambutene;
- (x) Dioxaphetyl butyrate;
- (y) Dipipanone;
- (z) Ethylmethylthiambutene;
- (aa) Etonitazene;
- (bb) Etixeridine;
- (cc) Furethidine;
- (dd) Hydroxypethidine;
- (ee) Ketobemidone;
- (ff) Levomoramide;
- (gg) Levophenacymorphan;
- (hh) 3-Methylfentanyl;
- (ii) 3-Methylthiofentanyl;
- (jj) Morpheridine;
- (kk) MPPP;
- (ll) Noracymethadol;
- (mm) Norlevorphanol;
- (nn) Normethadone;
- (oo) Norpipanone;
- (pp) Para-fluorofentanyl;
- (qq) PEPAP;
- (rr) Phenadoxone;
- (ss) Phenampromide;
- (tt) Phenomorphan;
- (uu) Phenoperidine;
- (vv) Piritramide;
- (ww) Proheptazine;

- (xx) Properidine;
- (yy) Propiram;
- (zz) Racemoramide;
- (aaa) Thiofentanyl;
- (bbb) Tilidine;
- (ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-Oxide;
- (f) Cyprenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;
- (i) Drotebanol;
- (j) Etorphine; (except Hydrochloride Salt);
- (k) Heroin;
- (l) Hydromorphenol;
- (m) Methyldesorphine;
- (n) Methyldihydromorphine;
- (o) Morphine methylbromide;
- (p) Morphine methylsulfonate;
- (q) Morphine-N-Oxide;
- (r) Myrophine;
- (s) Nicocodeine;
- (t) Nicomorphine;
- (u) Normorphine;
- (v) Pholcodine;
- (w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) 4-bromo-2,5-dimethoxyamphetamine;
 - (b) 4-bromo-2, 5-dimethoxyphenethylamine;
 - (c) 2,5-dimethoxyamphetamine;
 - (d) 2,5-dimethoxy-4-ethylamphetamine;
 - (e) 4-methoxyamphetamine;
 - (f) 5-methoxy-3,4-methylenedioxyamphetamine;
 - (g) 4-methyl-2,5-dimethoxy amphetamine;
 - (h) 3,4-methylenedioxyamphetamine;
 - (i) 3,4-methylenedioxymethamphetamine;
 - (j) 3,4-methylenedioxy-N-ethylamphetamine;
 - (k) N-hydroxy-3, 4-methylenedioxyamphetamine;
 - (l) 3,4,5-trimethoxyamphetamine;
 - (m) Alpha-ethyltryptamine;
 - (n) Bufotenine;
 - (o) Diethyltryptamine;
 - (p) Dimethyltryptamine;
-

- (q) Ibogaine;
- (r) Lysergic acid diethylamide;
- (s) Marijuana; (Marihuana);
- (t) Mescaline;
- (u) Parahexyl;
- (v) Peyote, to include all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
- (w) N-ethyl-3-piperidyl benzilate;
- (x) N-methyl-3-piperidyl benzilate;
- (y) Psilocybin;
- (z) Psilocyn;
- (aa) Tetrahydrocannabinols;
- (bb) Ethylamine analog of phencyclidine;
- (cc) Pyrrolidine analog of phencyclidine;
- (dd) Thiophene analog of phencyclidine;
- (ee) 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;
- (5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
 - (a) **Gamma hydroxybutyric acid;**
 - (b) Mecloqualone;
 - [(b)] (c) Methaqualone;
- (6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:
 - (a) Aminorex;
 - (b) Cathinone;
 - (c) Fenethylline;
 - (d) Methcathinone;
 - (e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro- 4-methyl-5-phenyl-2-oxazolamine);
 - (f) N-ethylamphetamine;
 - (g) N,N-dimethylamphetamine;
- (7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:
 - (a) N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;
 - (b) N-(1-(2-thienyl) methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.
- 3. The department of health shall place a substance in Schedule II if it finds that:
 - (1) The substance has high potential for abuse;
 - (2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
 - (3) The abuse of the substance may lead to severe psychic or physical dependence.
- 4. The controlled substances listed in this subsection are included in Schedule II:
 - (1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmeferene, naloxone and naltrexone, and their respective salts but including the following:

- a. Raw opium;
- b. Opium extracts;
- c. Opium fluid;
- d. Powdered opium;
- e. Granulated opium;
- f. Tincture of opium;
- g. Codeine;
- h. Ethylmorphine;
- i. Etorphine hydrochloride;
- j. Hydrocodone;
- k. Hydromorphone;
- l. Metopon;
- m. Morphine;
- n. Oxycodone;
- o. Oxymorphone;
- p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

- (a) Alfentanil;
- (b) Alphaprodine;
- (c) Anileridine;
- (d) Bezitramide;
- (e) Bulk Dextropropoxyphene;
- (f) Carfentanil;
- (g) Butyl nitrite;
- (h) Dihydrocodeine;
- (i) Diphenoxylate;
- (j) Fentanyl;
- (k) Isomethadone;
- (l) Levo-alphacetylmethadol;
- (m) Levomethorphan;
- (n) Levorphanol;
- (o) Metazocine;
- (p) Methadone;
- (q) Meperidine;
- (r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
- (s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane — carboxylic acid;

- (t) Pethidine;
- (u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (x) Phenazocine;
- (y) Piminodine;
- (z) Racemethorphan;
- (aa) Racemorphan;
- (bb) Sulfentanil;
- (3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
 - (b) Methamphetamine, its salts, isomers, and salts of its isomers;
 - (c) Phenmetrazine and its salts;
 - (d) Methylphenidate;
- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (a) Amobarbital;
 - (b) Glutethimide;
 - (c) Pentobarbital;
 - (d) Phencyclidine;
 - (e) Secobarbital;
- (5) Any material, compound or compound which contains any quantity of the following substances:
 - (a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;
 - (b) Nabilone;
- (6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
 - (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
 - (b) Immediate precursors to phencyclidine (PCP):
 - a. 1-phenylcyclohexylamine;
 - b. 1-piperidinocyclohexanecarbonitrile (PCC).
- 5. The department of health shall place a substance in Schedule III if it finds that:
 - (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
 - (2) The substance has currently accepted medical use in treatment in the United States; and
 - (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.
- 6. The controlled substances listed in this subsection are included in Schedule III:
 - (1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
 - (a) Benzphetamine;
 - (b) Chlorphentermine;
 - (c) Clortermine;
 - (d) Phendimetrazine;
 - (2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

a. Amobarbital;

b. **Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;**

c. Secobarbital;

[c.] d. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

(d) Chlorhexadol;

(e) **Ketamine, its salts, isomers, and salts of isomers;**

(f) Lysergic acid;

[(f)] (g) Lysergic acid amide;

[(g)] (h) Methpyrion;

[(h)] (i) Sulfondiethylmethane;

[(i)] (j) Sulfonethylmethane;

[(j)] (k) Sulfonmethane;

[(k)] (l) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Anabolic steroids. Unless specially excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances,

including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

- (a) Boldenone;
- (b) Chlorotestosterone (4-Chlortestosterone);
- (c) Clostebol;
- (d) Dehydrochlormethyltestosterone;
- (e) Dihydrotestosterone (4-Dihydro-testosterone);
- (f) Drostanolone;
- (g) Ethylestrenol;
- (h) Fluoxymesterone;
- (i) Formebolone (Formebolone);
- (j) Mesterolone;
- (k) Methandienone;
- (l) Methandranone;
- (m) Methandriol;
- (n) Methandrostenolone;
- (o) Methenolone;
- (p) Methyltestosterone;
- (q) Mibolerone;
- (r) Nandrolone;
- (s) Norethandrolone;
- (t) Oxandrolone;
- (u) Oxymesterone;
- (v) Oxymetholone;
- (w) Stanolone;
- (x) Stanozolol;
- (y) Testolactone;
- (z) Testosterone;
- (aa) Trenbolone;

(bb) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for that administration.

(6) The department of health may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health shall place a substance in Schedule IV if it finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethyl-amino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Alprazolam;
 - (b) Barbitol;
 - (c) Bromazepam;
 - (d) Camazepam;
 - (e) Chloral betaine;
 - (f) Chloral hydrate;
 - (g) Chlordiazepoxide;
 - (h) Clobazam;
 - (i) Clonazepam;
 - (j) Clorazepate;
 - (k) Clotiazepam;
 - (l) Cloxazolam;
 - (m) Delorazepam;
 - (n) Diazepam;
 - (o) Estazolam;
 - (p) Ethchlorvynol;
 - (q) Ethinamate;
 - (r) Ethyl loflazepate;
 - (s) Fludiazepam;
 - (t) Flunitrazepam;
 - (u) Flurazepam;
 - (v) Halazepam;
 - (w) Haloxazolam;
 - (x) [Ketamine;
 - (y)] Ketazolam;
 - [(z)] (y) Loprazolam;
 - [(aa)] (z) Lorazepam;
 - [(bb)] (aa) Lormetazepam;
 - [(cc)] (bb) Mebutamate;
 - [(dd)] (cc) Medazepam;
 - [(ee)] (dd) Meprobamate;
 - [(ff)] (ee) Methohexital;
 - [(gg)] (ff) Methylphenobarbital;
 - [(hh)] (gg) Midazolam;
 - [(ii)] (hh) Nimetazepam;
 - [(ij)] (ii) Nitrazepam;
 - [(kk)] (ij) Nordiazepam;
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[(ll)] **(kk)** Oxazepam;
[(mm)] **(ll)** Oxazolam;
[(nn)] **(mm)** Paraldehyde;
[(oo)] **(nn)** Petrichloral;
[(pp)] **(oo)** Phenobarbital;
[(qq)] **(pp)** Pinazepam;
[(rr)] **(qq)** Prazepam;
[(ss)] **(rr)** Quazepam;
[(tt)] **(ss)** Temazepam;
[(uu)] **(tt)** Tetrazepam;
[(vv)] **(uu)** Triazolam;
[(ww)] **(vv)** Zolpidem;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Cathine ((+)-norpseudoephedrine);
- (b) Diethylpropion;
- (c) Fencamfamin;
- (d) Fenproporex;
- (e) Mazindol;
- (f) Mefenorex;
- (g) Pemoline, including organometallic complexes and chelates thereof;
- (h) Phentermine;
- (i) Pipradrol;
- (j) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts: pentazocine;

(6) Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers and salts of isomers: ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient;

(7) The department of health may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any material, compound, mixture or preparation containing any of the following narcotic drug and its salts: buprenorphine;

(2) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(3) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone.

11. The department of health shall revise and republish the schedules annually.

195.070. WHO MAY PRESCRIBE. — 1. A physician, podiatrist, dentist, or a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, RSMo, in good faith and in the course of his **or her** professional practice only, may prescribe, administer, and dispense controlled substances or he **or she** may cause the same to be administered or dispensed by [a nurse or graduate physician under his direction and supervision] **an individual as authorized by statute.**

2. A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and he may cause them to be administered by an assistant or orderly under his direction and supervision.

3. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug.

4. An individual practitioner may not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

195.222. TRAFFICKING DRUGS, FIRST DEGREE — PENALTY. — 1. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of a mixture or substance containing a detectable amount of heroin. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

2. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than one hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than one hundred fifty grams but less than four hundred fifty grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is four hundred fifty grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

3. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than two grams of a mixture or substance described in subsection 2 of this section which contains cocaine base. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than two grams but less than six grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is six grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

4. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than five hundred milligrams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than five hundred milligrams but less than one gram the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is one gram or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

5. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of a mixture or substance containing a detectable amount of phencyclidine (PCP). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

6. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than four grams of phencyclidine. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than four grams but less than twelve grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is twelve grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

7. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty kilograms of a mixture or substance containing marijuana. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty kilograms but less than one hundred kilograms the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is one hundred kilograms or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

8. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more, or if the quantity involved was thirty grams or more and the location of the offense was within two thousand feet of a school or public housing as defined in section 195.214 or section 195.218 or within a motor vehicle, or any structure or building which contains rooms furnished for the accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests, the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

9. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he or she distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of any material, compound, mixture or preparation which contains any quantity of 3,4- methylenedioxymethamphetamine. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more, or if the quantity involved was thirty grams or more and the location of the offense was within two thousand feet of a school or public housing as defined in section 195.214 or section 195.218 or within a motor vehicle, or any structure or building which contains rooms furnished for the accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests, the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

195.223. TRAFFICKING DRUGS, SECOND DEGREE — PENALTY. — 1. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty grams of a mixture or substance containing a detectable amount of heroin. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more the person shall be guilty of a class A felony.

2. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than one hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation

which contains any quantity of any of the foregoing substances. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than one hundred fifty grams but less than four hundred fifty grams the person shall be guilty of a class B felony;

(2) If the quantity involved is four hundred fifty grams or more the person shall be guilty of a class A felony.

3. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than two grams of a mixture or substance described in subsection 2 of this section which contains cocaine base. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than two grams but less than six grams the person shall be guilty of a class B felony;

(2) If the quantity involved is six grams or more the person shall be guilty of a class A felony.

4. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than five hundred milligrams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than five hundred milligrams but less than one gram the person shall be guilty of a class B felony;

(2) If the quantity involved is one gram or more the person shall be guilty of a class A felony.

5. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty grams of a mixture or substance containing a detectable amount of phencyclidine (PCP). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more the person shall be guilty of a class A felony.

6. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than four grams of phencyclidine. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than four grams but less than twelve grams the person shall be guilty of a class B felony;

(2) If the quantity involved is twelve grams or more the person shall be guilty of a class A felony.

7. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty kilograms or more of a mixture or substance containing marijuana. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty kilograms but less than one hundred kilograms the person shall be guilty of a class B felony;

(2) If the quantity involved is one hundred kilograms or more the person shall be guilty of a class A felony.

8. A person commits the class A felony of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than five hundred marijuana plants.

9. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty grams of any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, isomers and salts of its isomers; phenmetrazine and its salts; or methylphenidate. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more but less than four hundred fifty grams, the person shall be guilty of a class A felony;

(3) If the quantity involved is four hundred fifty grams or more, the person shall be guilty of a class A felony and the term of imprisonment shall be served without probation or parole.

10. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he or she possesses or has under his or her control, purchases or attempts to purchase, or brings into this state more than thirty grams of any material, compound, mixture or preparation which contains any quantity of 3,4- methylenedioxymethamphetamine. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more but less than four hundred fifty grams, the person shall be guilty of a class A felony;

(3) If the quantity involved is four hundred fifty grams or more, the person shall be guilty of a class A felony and the term of imprisonment shall be served without probation or parole.

195.235. UNLAWFUL DELIVERY OR MANUFACTURE OF DRUG PARAPHERNALIA, PENALTY — POSSESSION IS PRIMA FACIE EVIDENCE OF INTENT TO VIOLATE SECTION. — 1. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425.

2. Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony.

195.246. POSSESSION OF EPHEDRINE, PENALTY — POSSESSION IS PRIMA FACIE EVIDENCE OF INTENT TO VIOLATE SECTION. — 1. It is unlawful for any person to possess [ephedrine, its salts, optical isomers and salts of optical isomers or pseudoephedrine, its salts, optical isomers and salts of optical isomers] **any methamphetamine precursor drug** with the intent to manufacture **amphetamine**, methamphetamine or any of [its] **their** analogs.

2. Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony.

195.400. REPORTS REQUIRED, EXCEPTIONS, PENALTIES — PERSON, DEFINED — LIST OF REGULATED CHEMICALS — APPLICABILITY EXCLUSIONS. — 1. As used in sections 195.400 to 195.425 the term "person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

2. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person shall submit to the department of health a report, as prescribed by the department of health, of all such transactions:

- (1) Anthranilic acid, its esters and its salts;
- (2) Benzyl cyanide;
- (3) Ergotamine and its salts;
- (4) Ergonovine and its salts;
- (5) N-Acetylanthranilic acid, its esters and its salts;
- (6) Phenylacetic acid, its esters and its salts;
- (7) Piperidine and its salts;
- (8) 3,4-Methylenedioxyphenyl-2-propanone;
- (9) Acetic anhydride;
- (10) Acetone;
- (11) Benzyl Chloride;
- (12) Ethyl ether;
- (13) Hydriodic acid;
- (14) Potassium permanganate;
- (15) 2-Butanone (or Methyl Ethyl Ketone or MEK);
- (16) Toluene;
- (17) Ephedrine, its salts, optical isomers, and salts of optical isomers;
- (18) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (19) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;
- (20) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (21) Methylamine and its salts;
- (22) Ethylamine and its salts;
- (23) Propionic anhydride;
- (24) Isosafrole;
- (25) Safrole;
- (26) Piperonal;
- (27) N-Methylephedrine, its salts, optical isomers and salts of optical isomers;
- (28) N-Methylpseudoephedrine, its salts, optical isomers and salts of optical isomers;
- (29) Benzaldehyde;
- (30) Nitroethane;
- (31) Methyl Isobutyl Ketone (MIBK);
- (32) Sulfuric acid;
- (33) Iodine;
- (34) Red phosphorous;
- (35) Gamma butyrolactone;**
- (36) 1,4 Butanediol.**

3. The chemicals listed or to be listed in the schedule in subsection 2 of this section are included by whatever official, common, usual, chemical, or trade name designated.

4. The department of health by rule or regulation may add substances to or delete substances from subsection 2 of this section in the manner prescribed [under] **pursuant to** section 195.017, if such substance is a component of or may be used to produce a controlled substance.

5. Any manufacturer, wholesaler, retailer or other person shall, prior to selling, transferring, or otherwise furnishing any substance listed in subsection 2 of this section to a

person within this state, require such person to give proper identification. For the purposes of this section "proper identification" means:

(1) A motor vehicle operator's license or other official state-issued identification which [contains a photograph of the person and] includes the residential or mailing address of the person, other than a post office box number; **or**

(2) [The motor vehicle license number of any motor vehicle operated by the person;

(3)] A letter of authorization from the business to which any of the substances listed in subsection 2 of this section are being transferred, which shall include the address of the business and business license number if the business is required to have a license number; **and**

[(4)] (3) A full description of how the substance is to be used; and

[(5)] (4) The signature of the person to whom such substances are transferred.

The person selling, transferring, or otherwise furnishing any substance listed in subsection 2 of this section shall affix his signature, to the document which evidences that a sale or transfer has been made, as a witness to the signature and proper identification of the person purchasing such substance.

6. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in subsection 2 of this section to a person shall[, not less than twenty-one days prior to the delivery of the substance, submit a report of the transaction as prescribed by the department of health, which shall include the proper identification information. The department of health may allow the submission of such reports on a monthly basis with respect to repeated, regular transactions between a person who furnishes such substances and the person to whom such substances are delivered, if the department determines that either:

(1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the person to whom such substance is delivered; or

(2) The person to whom such substance is delivered has established a record of utilization of the substance for lawful purposes.

7.] **keep records and inventories of all such chemicals in conformance with the record-keeping and inventory requirements of federal law, and in accordance with any additional regulations of the department of health.**

7. **The department of health is authorized to inspect the establishment of a registrant or applicant in accordance with the provisions of sections 195.005 to 195.425.**

8. This section shall not apply to any of the following:

(1) Any pharmacist, pharmacy, or other authorized person who sells or furnishes a substance listed in subsection 2 of this section upon the prescription or order of a physician, dentist, podiatrist or veterinarian;

(2) Any physician, optometrist, dentist, podiatrist or veterinarian who administers, dispenses or furnishes a substance listed in subsection 2 of this section to his **or her** patients within the scope of his **or her** professional practice. Such administration or dispensing shall be recorded in the patient record;

(3) Any sale, transfer, furnishing or receipt of any drug which contains any substance listed in subsection 2 of this section and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug and Cosmetic Act or regulations adopted thereunder.

[8.] 9. (1) Any violation of subsection 5 of this section shall be a class D felony.

(2) Any person subject to subsection 6 of this section who does not [submit a report] **keep records or inventory** as required or who knowingly [submits a report with] **documents** false or fictitious information shall be guilty of a class D felony and subject to a fine not exceeding ten thousand dollars.

(3) Any person who is found guilty a second time of not [submitting a report] **keeping records or inventory** as required in subsection 6 of this section or who knowingly [submits

such a report with] **documents** false or fictitious information shall be guilty of a class C felony and subject to a fine not exceeding one hundred thousand dollars.

195.417. LIMIT ON OVER-THE-COUNTER SALE OF METHAMPHETAMINE, EXCEPTIONS — VIOLATIONS, PENALTY. — 1. No person shall deliver in any single over-the-counter sale more than three packages of any methamphetamine precursor drug or any combination of methamphetamine precursor drugs.

2. This section shall not apply to any product labeled pursuant to federal regulation for use only in children under twelve years of age, or to any products that the state department of health, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors.

3. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

4. Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

195.418. LIMITATIONS ON THE RETAIL SALE OF METHAMPHETAMINE PRECURSOR DRUGS — VIOLATIONS, PENALTY. — 1. The retail sale of methamphetamine precursor drugs shall be limited to:

(1) Sales in packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and

(2) For nonliquid products, sales in blister packs, each blister pack containing not more than two dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

2. Any person holding a retail sales license pursuant to chapter 144, RSMo, who knowingly violates subsection 1 of this section is guilty of a class A misdemeanor.

441.236. DISCLOSURES REQUIRED FOR TRANSFER OF PROPERTY WHERE METHAMPHETAMINE PRODUCTION OCCURRED. — In the event that any premises to be rented, leased, sold, transferred or conveyed is or was used as a site for methamphetamine production, the owner, seller, landlord or other transferor shall disclose in writing to the prospective lessee, purchaser or transferee the fact that methamphetamine was produced on the premises, provided that the owner, seller, landlord or other transferor has knowledge of such prior methamphetamine production. The owner shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

478.009. DRUG COURTS COORDINATING COMMISSION ESTABLISHED, MEMBERS, MEETINGS — FUND CREATED. — 1. In order to coordinate the allocation of resources available to drug courts throughout the state, there is hereby established a "Drug Courts Coordinating Commission" in the judicial department. The drug courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of social services; one member selected by the director of the department of mental health; one member selected by the director of the department of public safety; one member selected by the state

courts administrator; and three members selected by the supreme court. The supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and treatment of persons assigned to drug courts or for operation of drug courts; secure grants, funds and other property and services necessary or desirable to facilitate drug court operation; and allocate such resources among the various drug courts operating within the state.

2. There is hereby established in the state treasury a "Drug Court Resources Fund", which shall be administered by the drug courts coordinating commission. Funds available for allocation or distribution by the drug courts coordinating commission may be deposited into the drug court resources fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the drug court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the drug court resources fund.

537.297. ANHYDROUS AMMONIA TAMPERING — DEFINITIONS — LIABILITY — IMMUNITY FROM LIABILITY, WHEN. — 1. The following words as used in this section shall have the following meanings:

- (1) "Owner", all of the following persons:
 - (a) Any person who lawfully owns anhydrous ammonia;
 - (b) Any person who lawfully owns a container, equipment or storage facility containing anhydrous ammonia;
 - (c) Any person responsible for the installation or operation of such containers, equipment or storage facilities;
 - (d) Any person lawfully selling anhydrous ammonia;
 - (e) Any person lawfully purchasing anhydrous ammonia for agricultural purposes;
 - (f) Any person who operates or uses anhydrous ammonia containers, equipment or storage facilities when lawfully applying anhydrous ammonia for agricultural purposes;
- (2) "Tamperer", a person who commits or assists in the commission of tampering;
- (3) "Tampering", transferring or attempting to transfer anhydrous ammonia from its present container, equipment or storage facility to another container, equipment or storage facility, without prior authorization from the owners.

2. A tamperer assumes the risk of any personal injury, death and other economic and noneconomic loss arising from his or her participation in the act of tampering. A tamperer or any person related to a tamperer shall not commence a direct or derivative action against any owner. Owners are immune from suit by a tamperer or any person related to a tamperer and shall not be held liable for any negligent act or omission which may cause personal injury, death or other economic or noneconomic loss to a tamperer.

3. The immunity from liability and suit authorized by this section is expressly waived for owners whose acts or omissions constitute willful or wanton negligence.

570.030. STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

- (1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;
- (2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;
- (3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo.

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia **or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class [D] C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.**

5. The theft of any item of property or services under subsection 3 of this section which exceeds seven hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

578.154. POSSESSION OF ANHYDROUS AMMONIA, CRIME OF — PENALTY. — 1. A person commits the crime of possession of anhydrous ammonia in a nonapproved container if he or she possesses any quantity of anhydrous ammonia in any container other than a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator or any container approved for anhydrous ammonia by the department of agriculture or the United States Department of Transportation.

2. A violation of this section is a class D felony.

Approved June 18, 2001

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates cut-leaved teasel, common teasel and kudzu vine as noxious weeds.

AN ACT to amend chapter 263, RSMo, by adding thereto one new section relating to noxious weeds.

SECTION

A. Enacting clause.

263.232. Eradication and control of the spread of teasel and kudzu vine.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 263, RSMo, is amended by adding thereto one new section, to be known as section 263.232, to read as follows:

263.232. ERADICATION AND CONTROL OF THE SPREAD OF TEASEL AND KUDZU VINE. — **It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands:**

(1) To control the spread of and eradicate cut-leaved teasel (*Dipsacus laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated as noxious and dangerous weeds to agriculture, by methods approved by the Environmental Protection Agency and in compliance with the manufacturer's label instructions; and

(2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby designated as a noxious and dangerous weed to agriculture, by methods approved by the Environmental Protection Agency and in compliance with the manufacturer's label instructions.

Approved June 26, 2001

HB 491 [CCS SCS HB 491]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Eliminates the office of city marshal in third class cities that contract for police service.

AN ACT to repeal sections 77.370 and 77.450, RSMo 2000, relating to certain municipalities, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

77.370. Elective officers — option to appoint certain officers — terms.

77.450. Vacancies, how filled.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 77.370 and 77.450, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 77.370 and 77.450, to read as follows:

77.370. ELECTIVE OFFICERS — OPTION TO APPOINT CERTAIN OFFICERS — TERMS. —

1. Except as hereinafter provided, the following officers shall be elected by the voters of the city: Mayor, police judge, attorney, assessor, collector, treasurer and, except in cities which adopt the merit system police department, a marshal.

2. **Notwithstanding the provisions of subsection 1 of this section, in cities which contract with another entity for police service, the city council may eliminate the office of marshal.**

3. The attorney shall be a person licensed to practice law in Missouri, and the council, by ordinance, may provide for the appointment of an attorney, by the mayor with the approval of the council, in lieu of electing an attorney. If so appointed he shall serve at the pleasure of the mayor and council.

[3.] 4. Whenever a city contracts for the assessment of property or the collection of taxes [by the county or township assessor or collector, respectively,] **with either a public or private entity** as authorized by section 70.220, RSMo, the city council [shall] **may** by ordinance provide that at the expiration of the term of the then city assessor or collector, as the case may be, the office is abolished and thereafter no election shall be had to fill the office; except that in the event the contract expires and, for any reason, is not renewed, the council may by ordinance provide for the election of such officer at the next and succeeding regular elections for municipal officers.

[4.] 5. The term of office for each of the officers is two years except the office of mayor and the marshal which are four-year terms. All officers hold office until their successors are duly elected or appointed and qualified.

[5.] 6. The council, by ordinance, may provide that any officer of the city except the mayor and the councilmen shall be appointed instead of elected. Such ordinance shall set the manner of appointment, in accordance with section 77.330, and the term of office for each appointive officer, which term shall not exceed four years.

77.450. VACANCIES, HOW FILLED. — [In counties of the first classification with a charter form of government which have a population of at least nine hundred thousand inhabitants, if a vacancy occurs in any elective office, the mayor, or the person exercising the office of mayor, shall cause a special election to be held to fill such vacancy. When any such vacancy occurs within six months of a municipal election, no election shall be called to fill such vacancy, but the same shall be filled by the mayor or the person exercising the office of mayor by appointment. Any vacancy in the office of councilman which occurs within the six months shall be filled by election, in such manner as may be provided by ordinance. In all other counties,] If a vacancy occurs in any elective office other than the office of mayor, a successor to the vacant office shall be selected by appointment by the mayor with the advice and consent of a majority of the remaining members of the council. The council may adopt procedures to fill vacancies consistent with this section. The successor shall serve until the next **available** regular **municipal April** election. If a vacancy occurs in any office not elective, the mayor shall appoint a suitable person to discharge the duties of the same until the first regular meeting of the council thereafter, at which time the vacancy shall be permanently filled.

Approved June 26, 2001

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the petitioning provisions for opting out of the city manager form of government for the City of DeSoto.

AN ACT to repeal section 78.450, RSMo 2000, relating to ballot questions for maintaining the city manager form of government, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

78.450. City may abandon plan — procedure — election — form of ballot.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 78.450, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 78.450, to read as follows:

78.450. CITY MAY ABANDON PLAN — PROCEDURE — ELECTION — FORM OF BALLOT.

— 1. Any city which has operated [under] **pursuant to** the provisions of sections 78.430 to [78.640 not less than six years] **78.630** may abandon the form of organization provided for [herein] **in sections 78.430 to 78.630**, by proceeding as follows: Upon the petition of [not less than ten percent of the voters casting votes for governor in the last preceding general election of such city, as shown by the total vote cast at the last preceding municipal election of the city,] **registered voters residing in the city numbering not less than twenty-five percent of the votes cast in the city in the last gubernatorial election**, the question shall be submitted whether the city shall continue operating [under] **pursuant to** sections 78.430 to [78.640] **78.630**, in the manner [herein] provided for the adoption of [said] sections 78.430 to [78.640.] **78.630**. **Each petition shall contain, in addition to the printed names and signatures of each petitioner:**

- (1) **The street and house number of each petitioner;**
- (2) **The age of the petitioner;**
- (3) **An accompanying affidavit of one or more of the voters of the city. The affidavit shall state:**

- (a) **That the signers of the petition were, at the time of signing, voters of the city; and**
- (b) **The number of signers of the petition at the time of the making of the affidavit.**

2. The question shall be submitted in substantially the following form:

Shall the city manager form of government for the city of be continued?

3. If a majority of the votes cast are against the continuation of the city manager form of government, then the provisions of sections 78.430 to [78.640] **78.630** and all amendments thereto cease to be effective in the city and **the** city shall resume the form of government it abandoned when it adopted the plan [herein] provided for **in sections 78.430 to 78.630**, and shall organize thereunder; except that any third class city, desiring to vote on the question to determine whether or not to remain organized under the provisions of sections 78.430 to [78.640] **78.630**, may at the same time submit the question as to what form of government it shall adopt, if there is more than one other form provided for third class cities; but the change of form or organization [does] **shall** not become effective until the next municipal election thereafter.

Approved June 26, 2001

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases the authorization for water pollution bonds.

AN ACT to repeal sections 204.300, 204.370, 250.236 and 640.755, RSMo 2000, relating to water and sewage systems, and to enact in lieu thereof sixteen new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 204.300. Trustees, how appointed, qualifications, expenses reimbursement, compensation — registered professional engineer, may employ.
- 204.370. Bonds, issuance on four-sevenths vote — certain counties (Jackson and Cass).
- 249.1100. Consolidation of sewer districts permitted, when, procedure.
- 249.1103. Public hearing to be held prior to election for consolidation of sewer districts.
- 249.1106. Ballot language for consolidation of sewer districts — submission of question to voters in both districts simultaneously.
- 249.1109. Combining of original districts after consolidation approved.
- 249.1112. Board of directors, members, terms, vacancies, expenses.
- 249.1115. Powers, privileges and duties of original districts retained after consolidation.
- 249.1118. Dissolution procedure.
- 250.236. Termination of water services for nonpayment of sewer charges, allowed when (St. Joseph, Arnold).
- 640.755. Rulemaking, procedure — clean water commission to administer.
- 644.038. Certification of nationwide permit by department, when.
1. Commissioners may borrow additional \$10,000,000 for improvements.
 2. Commissioners may borrow additional \$10,000,000 for rural water and sewer grants and loans.
 3. Commissioners may borrow additional \$20,000,000 for grants and loans to storm control plans.
 4. Rights to private water systems and ground source systems retained, exceptions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 204.300, 204.370, 250.236 and 640.755, RSMo 2000, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 204.300, 204.370, 249.1100, 249.1103, 249.1106, 249.1109, 249.1112, 249.1115, 249.1118, 250.236, 640.755, 644.038, 1, 2, 3 and 4, to read as follows:

204.300. TRUSTEES, HOW APPOINTED, QUALIFICATIONS, EXPENSES REIMBURSEMENT, COMPENSATION — REGISTERED PROFESSIONAL ENGINEER, MAY EMPLOY. — 1. In all counties except counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, the governing body of the county, by resolution, order, or ordinance, shall appoint five trustees, the majority of whom shall reside within the boundaries of the district. In the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the appointed board of trustees. The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution of the board of trustees. The board of trustees shall be responsible for the control and operation of the sewer district. The term of each board member shall be five years; except that, members of the governing body of the county sitting upon the board shall not serve beyond the expiration of their term as members of such governing body of the county. The first board of trustees shall be appointed for terms ranging from one to five years so as to establish one vacancy per year thereafter. The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution, order, or ordinance of the governing body of the county. Any and all expenses incurred in the performance of their duties shall be reimbursed by the district. The board of trustees shall have the power to employ and fix the compensation of such staff as may

be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees shall select a treasurer, who may be either a member of the board of trustees or another qualified individual. The treasurer selected by the board shall give such bond as may be required by the board of trustees. The board of trustees shall appoint the sewer engineer for the county in which the greater part of the district lies as chief engineer for the district, and the sewer engineer shall have the same powers, responsibilities and duties in regard to planning, construction and maintenance of the sewers, and treatment facilities of the district as he now has by virtue of law in regard to the sewer facilities within the county for which he is elected. If there is no sewer engineer in the county in which the greater part of the district lies, the board of trustees may employ a registered professional engineer as chief engineer for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall not apply to any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

2. In any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, **and in any county of the first classification without a charter form of government and which has a population of more than sixty-three thousand seven hundred but less than seventy-five thousand**, there shall be [a seven-member] **an eight-member** board of trustees to consist of the county executive, [three members] **the mayors of the four cities constituting the largest users by flow during the previous fiscal year, the mayors of two cities which are not among the four largest users and who are members** of the advisory board of the district established pursuant to section 204.310, and [three members] **one member** of the county legislature to be appointed by the county executive, with the concurrence of the county legislature. If the county executive does not appoint such members of the county legislature to the board of trustees within sixty days, the county legislature shall make the appointments. The advisory board members shall be appointed annually by the advisory board. In the event the district extends into any county bordering the county in which the greater portion of the district lies, **the number of members on the board of trustees shall be increased to a total of nine and** the presiding commissioner or county executive of the adjoining county shall be an additional member of the board of trustees. The trustees shall receive no compensation for their services, but may be compensated for their reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees and shall exercise the powers, responsibilities and duties heretofore exercised by the chief engineer prior to September 28, 1983. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall only apply to counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

204.370. BONDS, ISSUANCE ON FOUR-SEVENTHS VOTE — CERTAIN COUNTIES (JACKSON AND CASS). — 1. No common sewer district **in any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, or in any county of the first classification without a charter form of government and which has a population of more than sixty-three thousand seven hundred but less than**

seventy-five thousand shall issue or deliver any bonds for the purpose of acquiring, constructing, improving or extending any sewerage system payable from the revenues to be derived from the operation of the system unless a proposition to issue the bonds shall have received the assent of [four-sevenths] **a majority** of the voters of the sewer district who shall vote on the question **or the written assent of three-quarters of the customers of the sewer district. For purposes of this section, "customer" shall mean:**

(1) **A political subdivision within the district which has a service or user agreement with the district; or**

(2) **A duly created subdistrict.**

2. The question shall be submitted in substantially the following form:

Shall revenue bonds in the amount of dollars for the purpose of (acquiring, constructing, improving or extending the sewerage system) be issued by the common sewer district?

249.1100. CONSOLIDATION OF SEWER DISTRICTS PERMITTED, WHEN, PROCEDURE. —

1. Except as otherwise provided in section 30(a) of article VI of the Missouri Constitution, regardless of being a sewer district pursuant to chapter 204, RSMo, or this chapter, when the governing bodies of two or more contiguous sewer districts located in any county of the first classification without a charter form of government having not less than one hundred seventy thousand and not more than two hundred thousand inhabitants determine that a consolidated sewer system would better serve the area within their boundaries, the governing bodies shall submit the proposal for a consolidated sewer district to the governing body of such county. The governing body of the county after consultation with the sewer engineer pursuant to section 204.300, RSMo, and section 249.460, shall by resolution submit the question of creating a consolidated sewer district to all qualified voters residing within each existing district at a municipal or general or special election called for that purpose.

2. The resolution shall set forth the project name for the proposed consolidated sewer district, the general nature of the proposed consolidated sewer district, the estimated cost of the sewer improvements for such consolidated sewer district, the boundaries of the existing districts to be consolidated, the proposed method or methods of assessment, and a statement that the final cost of such sewer improvements assessed against property within the consolidated sewer district and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such sewer improvements, as stated in such notice, by more than twenty-five percent.

249.1103. PUBLIC HEARING TO BE HELD PRIOR TO ELECTION FOR CONSOLIDATION OF SEWER DISTRICTS. — The governing body of the county receiving the proposal pursuant to section 249.1100, shall set a day for a public hearing prior to election for the creation of a consolidated sewer district and shall publish the resolution with a notice of the time and place of public hearing in some local newspaper of general circulation, published in such county in which any district proposed to be consolidated lies at least thirty days before the date of the hearing. At such hearing anyone interested in the proposed consolidation of sewer districts may appear and present their views to the governing body of the county.

249.1106. BALLOT LANGUAGE FOR CONSOLIDATION OF SEWER DISTRICTS — SUBMISSION OF QUESTION TO VOTERS IN BOTH DISTRICTS SIMULTANEOUSLY. — 1. The ballot upon which the question of creating a consolidated sewer district is submitted to the qualified voters residing within each existing sewer district or districts shall contain a question in substantially the following form:

Shall the (governing body's name) of (county's name) be authorized to dissolve the existing (name of existing sewer district) and create a consolidated sewer district proposed for the (name of existing sewer districts to be consolidated) and authorize the consolidated sewer districts to incur indebtedness and issue general obligation bonds to pay for all or part of the cost of the creation and maintenance of such consolidated sewer district, with the cost of all indebtedness so incurred to be assessed by the (name of consolidated sewer district) on the property within the consolidated sewer district?

☐ Yes ☐ No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the total votes cast on the proposal by the qualified voters of each existing district or districts voting thereon are in favor of the proposal, then the order shall become effective. If the proposal receives less than the required majority in at least one existing district, then the governing body of the county shall have no power to impose the consolidation of sewer districts as authorized pursuant to this section unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to consolidate authorized by this section and such proposal is approved by the required majority of the total votes cast on the proposal by the qualified voters of each existing district or districts voting on such proposal.

2. The boundaries of the proposed consolidated sewer district shall be described by metes and bounds, streets or other sufficiently specific description.

3. There shall be separate submissions of the question of creating a consolidated sewer district to each group of voters within each existing sewer district or districts, and the elections shall be held simultaneously.

249.1109. COMBINING OF ORIGINAL DISTRICTS AFTER CONSOLIDATION APPROVED. —

At the time of the effective date of the consolidation, all the property of the original districts shall be combined and administered as one unit, which shall be subject to the liens, liabilities and obligations of the original districts, provided that if any district included in the consolidated district has issued general obligation bonds which are outstanding at the time of the consolidation, any taxes to be levied to pay the bonds and interest thereon shall be levied only upon the property within the original district issuing the bonds as it existed on the date of such issuance. All special obligation or revenue bonds issued by any district included in the consolidated district shall be paid in accordance with the terms thereof, without preference, from the revenue received by the consolidated district.

249.1112. BOARD OF DIRECTORS, MEMBERS, TERMS, VACANCIES, EXPENSES. — 1. A

sewer district created pursuant to sections 249.1100 to 249.1127, shall have a board of directors which shall consist of five members, appointed by the governing body of the county in which the consolidated sewer district is located. Each member shall be a United States citizen, a registered voter, over the age of twenty-five years and shall have been a resident within the consolidated sewer district for one whole year prior to appointment.

2. The board shall be responsible for the control and operation of all such sewer districts organized pursuant to section 249.1106.

3. Beginning with appointments made after August 28, 2001, one member shall be appointed for four years, two members shall be appointed for three years and two members shall be appointed for two years. Following the initial appointments, the term of each board member shall be five years.

4. A vacancy in the office of a member shall be filled by appointment in the same manner as the original appointments.

5. No member of the board shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties by the consolidated sewer district. The board members shall be reimbursed by the district for all reasonable expenses incurred in the performance of their duties.

249.1115. POWERS, PRIVILEGES AND DUTIES OF ORIGINAL DISTRICTS RETAINED AFTER CONSOLIDATION. — The consolidated sewer district shall retain all the powers, privileges and duties therein conferred and provided upon each original individual sewer district pursuant to chapter 204, RSMo, or this chapter, whichever it was created and organized under.

249.1118. DISSOLUTION PROCEDURE. — Dissolution of a sewer district created pursuant to section 249.1106 shall follow the procedures established in sections 67.950 to 67.955, RSMo.

250.236. TERMINATION OF WATER SERVICES FOR NONPAYMENT OF SEWER CHARGES, ALLOWED WHEN (ST. JOSEPH, ARNOLD). — 1. Any city [with a population of at least seventy-one thousand located in a county of the first classification without a charter form of government which has a population of at least eighty-two thousand but less than eighty-five thousand and any city with a population of at least seventeen thousand located in a county of the first classification without a charter form of government which has a population of at least one hundred seventy thousand but less than one hundred eighty thousand], **town or village** may contract with a private or public water company to terminate water services, at the direction of the city, because a customer fails to pay his sewer bill. When charges for sewer services are in arrears for more than three months and after the city sends notice to the customer by certified mail, the city may disconnect the customer's sewer line or request in writing that the private or public water company discontinue water service until such time as the sewer charges and all related costs are paid.

2. A private or public water company acting pursuant to a written request from the city as provided in subsection 1 of this section is not liable for damages related to termination of water services. All costs related to disconnection and reconnections shall be reimbursed to the private water company by the city.

640.755. RULEMAKING, PROCEDURE — CLEAN WATER COMMISSION TO ADMINISTER. — 1. No rule or portion of a rule promulgated under the authority of sections 640.700 to 640.755 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

2. Sections 640.700 to 640.755 shall be administered by the clean water commission pursuant to the provisions and requirements of chapter 644, RSMo.

[3. The provisions of this section shall terminate five years after June 25, 1996.]

644.038. CERTIFICATION OF NATIONWIDE PERMIT BY DEPARTMENT, WHEN. — Where applicable, under Section 404 of the federal Clean Water Act and where the U.S. Army Corps of Engineers has determined that a nationwide permit may be utilized for the construction of highways and bridges approved by the Missouri highways and transportation commission, the department shall certify without conditions such nationwide permit as it applies to impacts on all waters of the state.

SECTION 1. COMMISSIONERS MAY BORROW ADDITIONAL \$10,000,000 FOR IMPROVEMENTS. — In addition to those sums authorized prior to August 28, 2002, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of

article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

SECTION 2. COMMISSIONERS MAY BORROW ADDITIONAL \$10,000,000 FOR RURAL WATER AND SEWER GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 2002, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

SECTION 3. COMMISSIONERS MAY BORROW ADDITIONAL \$20,000,000 FOR GRANTS AND LOANS TO STORM CONTROL PLANS. — In addition to those sums authorized prior to August 28, 2002, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

SECTION 4. RIGHT TO PRIVATE WATER SYSTEMS AND GROUND SOURCE SYSTEMS RETAINED, EXCEPTIONS. — Notwithstanding any law to the contrary, all Missouri landowners retain the right to have, use, and own private water systems and ground source systems anytime and anywhere including land within city limits, unless prohibited by city ordinance, on their own property so long as all applicable rules and regulations established by the Missouri department of natural resources are satisfied. All Missouri landowners who choose to use their own private water system shall not be forced to purchase water from any other water source system servicing their community.

Approved July 12, 2001

HB 502 [HB 502]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a conveyance of certain property in St. Francois County to the American Legion.

AN ACT to authorize the governor to convey certain property in St. Francois County which is part of the Southeast Missouri Mental Health Center to the American Legion.

SECTION

1. Conveyance of property in St. Francois County by the state to the American Legion — attorney general to approve the form of the instrument of conveyance.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY IN ST. FRANCOIS COUNTY BY THE STATE TO THE AMERICAN LEGION — ATTORNEY GENERAL TO APPROVE THE FORM OF THE INSTRUMENT OF CONVEYANCE. — 1. The governor is hereby authorized and empowered to give, grant, bargain and convey to the American Legion all of the state's interest in a parcel of property in St. Francois County which is part of the grounds of the Southeast

Missouri Mental Health Center. The property to be conveyed is more particularly described as follows:

Part of Lots 75, 76 and Wm. Alexander 300 Acre Tract of F.W. Rohlands Subdivision of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri.

Commencing at an old iron pin marking the Northwest corner of Lot 62 of F.W. Rohlands subdivision of U.S. Survey 2969, Township 35 North, Range 5 East, thence South 27°55'00" West 1,469.86' feet to a found R/W marker on the Sough right-of-way (ROW) of Missouri Route "W" being the point of beginning of the following described tract; said point of beginning also being the point of beginning of a (.68) Acre tract conveyed to the American Legion Post 416; thence Sought 24°50'24" East 300.00' along the east line of said tract to a point marking the eastern most corner of said tract; thence South 51°03'24" West 102.36' feet to a point marking the southern most corner of said tract and being on the east line of a tract N/F USARC TRAINING CENTER; thence South 24°50'24" East 75.00' feet along the east line of said training center to a point; thence departing said east line of said tract North 51°03'24" East 207.72' feet to a point; thence North 20°45'47" West 350.75' to a point on the south right-of-way of said Route "W"; thence South 65°11'39" West 125.00' feet along said right-of-way line to the point of beginning, and containing 1.11 acres more or less.

2. The attorney general shall approve the form of the instrument of conveyance.

Approved June 8, 2001

HB 537 [HB 537]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various statutes relating to marriage by adding gender neutral language.

AN ACT to repeal sections 442.030, 451.250, 451.260, 451.270, 451.280, 451.300, 452.075, 452.080, 452.110, 452.130, 452.140, 452.170, 452.180, 452.190, 452.200, 452.210, 452.220, 452.230, 452.240, 452.250 and 474.140, RSMo 2000, relating to marriage, and to enact in lieu thereof twenty new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 442.030. Conveyance of property of spouse — covenants.
- 451.250. Married persons to hold real and personal property as separate property — liable for what.
- 451.260. Rents of married person's real estate exempt from liability for spouse's debts, when.
- 451.270. Property of married person exempt from debts of spouse incurred before marriage.
- 451.280. Compensation for damage to married woman's real estate, invested how.
- 451.300. Conveyance of property when one of the spouses is disabled and under conservatorship or a guardian ad litem is appointed.
- 452.075. Remarriage of former spouse ends alimony.
- 452.080. Decree for alimony — a lien, when.
- 452.110. Decree as to alimony only subject to review.
- 452.130. Spouse abandoned, court to adjudge maintenance — execution to enforce.
- 452.140. No property exempt from attachment or execution, when.
- 452.170. Petition for enjoyment of spouse's separate estate, when.
- 452.180. Circuit court may make decree.
- 452.190. Authorization by court to sell property.
- 452.200. Married person enjoined from squandering property at suit of spouse.

- 452.210. Court may authorize persons holding money of married person to pay spouse.
452.220. Married person entitled to proceeds of earnings of his or her minor children, when.
452.230. Proceeds used for support of himself or herself and family.
452.240. Filing of petition, proceedings.
452.250. Proceedings on such petition — appeal allowed, when and where.
474.140. Inheritance and statutory rights barred on misconduct of spouse.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 442.030, 451.250, 451.260, 451.270, 451.280, 451.300, 452.075, 452.080, 452.110, 452.130, 452.140, 452.170, 452.180, 452.190, 452.200, 452.210, 452.220, 452.230, 452.240, 452.250 and 474.140, RSMo 2000, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 442.030, 451.250, 451.260, 451.270, 451.300, 452.075, 452.080, 452.110, 452.130, 452.140, 452.170, 452.180, 452.190, 452.200, 452.210, 452.220, 452.230, 452.240, 452.250 and 474.140, to read as follows:

442.030. CONVEYANCE OF PROPERTY OF SPOUSE — COVENANTS. — A husband and wife may convey the real estate of the **husband or** wife [and the wife may relinquish her dower in the real estate of her husband,] by their joint deed acknowledged and certified as herein provided. [And any covenant expressed or implied in any deed conveying property belonging to the wife shall bind the wife and her heir to the same extent as if such wife was a femme sole. But no covenant in any deed conveying property belonging to the wife shall bind the husband, nor shall any covenant in any deed conveying the property of the husband bind the wife except so far as may be necessary to effectually convey from the husband or wife, so joining therein and not owning the property, all the right, title and interest expressed to be conveyed therein; provided, however, that] Where the property conveyed is owned by the husband and wife as an estate by the entirety, then both shall be bound by the covenants therein expressed or implied.

451.250. MARRIED PERSONS TO HOLD REAL AND PERSONAL PROPERTY AS SEPARATE PROPERTY — LIABLE FOR WHAT. — 1. All real estate and any personal property, including rights in action, belonging to any **man or** woman at **his or** her marriage, or which may have come to **him or** her during coverture, by gift, bequest or inheritance, or by purchase with **his or** her separate money or means, or be due as the wages of **his or** her separate labor, or has grown out of any violation of **his or** her personal rights, shall, together with all income, increase and profits thereof, be and remain **his or** her separate property and under **his or** her sole control, and shall not be liable to be taken by any process of law for the debts of **his wife or** her husband.

2. This section shall not affect the title of any husband **or wife** to any personal property reduced to his **or her** possession with the express assent of his [wife] **or her spouse**; provided, that said personal property shall not be deemed to have been reduced to possession by the husband **or wife** by his **or her** use, occupancy, care or protection thereof, but the same shall remain **his or** her separate property, unless by the terms of said assent, in writing, full authority shall have been given by the **husband or** wife to the [husband] **spouse** to sell, encumber or otherwise dispose of the same for his **or her** own use and benefit, but such property shall be subject to execution for the payments of the debts of the [wife] **spouse** contracted before or during marriage, and for any debt or liability of **his or** her [husband] **spouse** created for necessities for the [wife] **spouse** or family; and any such married **man or** woman may, in **his or** her own name and without joining **his or** her [husband] **spouse**, as a party plaintiff institute and maintain any action, in any of the courts of this state having jurisdiction, for the recovery of any such personal property, including rights in action, as aforesaid, with the same force and effect as if such married **man or** woman was a [femme sole] **not married**; provided, any judgment for costs in any such proceeding rendered against any such married [woman] **spouse**, may be satisfied out of any separate property of such married [woman] **spouse** subject to execution; provided, that before any such execution shall be levied upon any separate estate of

a married [woman] **spouse, he or** she shall have been made a party to the action, and all questions involved shall have been therein determined, and shall be recited in the judgment and the execution thereon.

451.260. RENTS OF MARRIED PERSON'S REAL ESTATE EXEMPT FROM LIABILITY FOR SPOUSE'S DEBTS, WHEN. — The rents, issues and products of the real estate of any married [woman] **person**, and all moneys and obligations arising from the sale of such real estate, and the interest of [her husband in her] **such person's spouse in such person's** right in any real estate which belonged to [her] **such person** before marriage, or which **he or** she may have acquired by gift, grant, devise or inheritance during coverture, shall, during coverture, be exempt from attachment or levy of execution for the sole debts of **his or** her [husband] **spouse**; and no conveyance made during coverture by such [husband] **spouse** of such rents, issues and products, or of any interest in such real estate, shall be valid, unless the same be by deed executed by the [wife] **spouse** jointly with the [husband] **the other spouse**, and acknowledged by **him or** her in the manner now provided by law [in the case of the conveyance by husband and wife of the real estate of the wife]; provided, such annual products may be attached or levied upon for any debt or liability of **his or** her [husband] **spouse**, created for necessities for the [wife] **spouse** and family, and for debts for labor or materials furnished upon or for the cultivation or improvement of such real estate.

451.270. PROPERTY OF MARRIED PERSON EXEMPT FROM DEBTS OF SPOUSE INCURRED BEFORE MARRIAGE. — [The husband's] **A spouse's** property, except such as may be acquired from the [wife] **other spouse**, shall be exempt from all debts and liabilities contracted or incurred by his [wife] **or her spouse** before their marriage.

[451.280. COMPENSATION FOR DAMAGE TO MARRIED WOMAN'S REAL ESTATE, INVESTED HOW. — When the real estate of any married woman shall be taken for a railroad, way or other public use, or shall be damaged by the laying out of a railroad, way, or by any other public works, the damage or compensation awarded therefor may be so invested and disposed of as to secure to her the same right, use and benefit of, and in the sum so awarded, and the income thereof, that she would have had of and in the real estate, and the income thereof, if it had not been so taken or damaged; and the circuit court shall, on the proper application of any such woman, make such decrees and orders therein as may be necessary and proper to enforce and secure her said rights and interests.]

451.300. CONVEYANCE OF PROPERTY WHEN ONE OF THE SPOUSES IS DISABLED AND UNDER CONSERVATORSHIP OR A GUARDIAN AD LITEM IS APPOINTED. — The [wife] **spouse** of any [man] **person** who is under conservatorship may join with the conservator in making partition of **his or** her own real estate held in joint tenancy, or in common, and may, jointly with the conservator, make any release or other conveyance necessary and proper for that purpose; and **he or** she may sell and convey **his or** her own real estate by joining with the conservator in such sale and conveyance, to be under the order and supervision of the proper court, and deeds executed jointly by **himself or** herself and such conservator shall have the same force and effect as if done with **his or** her [husband] **spouse** if [he] **such spouse** had been under no disability; and in all cases where the real estate of such [husband] **person** shall be sold by his **or her** conservator in due conformity to law, **he or** she may relinquish **his or** her right [or dower] in such real estate as fully as if **his or** her [husband] **spouse** joined in the deed of release; and when a [wife] **person** is found to be disabled as defined in chapter 475, RSMo, and **his or** her [husband] **spouse** is the owner of real estate in this state that he **or she** desires to convey, then, upon provision made for such disabled [wife] **person**, according to **his or** her needs, and according to the ability, situation in life and circumstances of **his or** her [husband] **spouse**, and

to **his or** her safely secured under the order and control of the proper court, the conservator of such disabled [wife] **person** may, under the order and approval of the court, join in a deed, on behalf of such disabled [wife] **person**, for the purpose of conveying **his or** her [dower or homestead, or both her dower and] homestead, interest in such real estate; and if [she have] **he or she has** no conservator, then the court may appoint a guardian ad litem [under] **pursuant to** chapter 475, RSMo, who may, in like manner, upon the conditions and under the order of the court, join with the [husband] **spouse on his or** her behalf in such deed; and such conveyance, when executed, as aforesaid, by either the conservator or the guardian ad litem and the [husband] **spouse** of such [woman] **person**, shall be as valid and effectual to convey any land owned by such [husband] **spouse**, including **his or her** homestead, and shall have the effect of releasing the [wife's dower or] **spouse's** homestead[, or both,] in the real estate as fully as if **he or** she had, under no disability, of **his or** her own free will, executed and acknowledged the same; provided, that no such order of conveyance shall be made by the court until application made thereto, in writing, by such [husband] **spouse**, setting forth the facts, and twenty days' public notice given of the time and place of hearing such application has been given by publication in a weekly newspaper of general circulation published in the county.

452.075. REMARRIAGE OF FORMER SPOUSE ENDS ALIMONY. — When a divorce has been granted, and the court has made an order or decree providing for the payment of alimony and maintenance [of the wife], the remarriage of the former [wife] **spouse** shall relieve the [former husband] **spouse obligated to pay support** from further payment of alimony to the former [wife] **spouse** from the date of the remarriage, without the necessity of further court action, but the remarriage shall not relieve the former [husband] **spouse** from the provisions of any judgment or decree or order providing for the support of any minor children.

452.080. DECREE FOR ALIMONY — A LIEN, WHEN. — Upon a decree of divorce [in favor of the wife], the court may, in its discretion, decree alimony in gross or from year to year. When alimony is decreed in gross, such decree shall be a general lien on the realty of the party against whom the decree may be rendered, as in the case of other judgments. When such decree is for alimony from year to year, such decree shall not be a lien on the realty as aforesaid, but an execution in the hands of the proper officer, issued for the purpose of enforcing such decree, shall constitute a lien on the real and personal property of the defendant in such execution, so long as the same shall lawfully remain in the possession of such officer unsatisfied. In lieu of the lien of such decree for alimony from year to year, it is hereby provided that the party against whom such decree may be rendered shall be required to give security ample and sufficient for such alimony; but where default has been made in giving such security, the decree for alimony from year to year shall be a lien as in case of general judgments.

452.110. DECREE AS TO ALIMONY ONLY SUBJECT TO REVIEW. — No petition for review of any judgment for divorce, rendered in any case arising [under] **pursuant to** this chapter, shall be allowed, any law or statute to the contrary notwithstanding; but there may be a review of any order or judgment touching the alimony and maintenance of the [wife] **spouse**, and the care, custody and maintenance of the children, or any of them, as in other cases.

452.130. SPOUSE ABANDONED, COURT TO ADJUDGE MAINTENANCE — EXECUTION TO ENFORCE. — When [the husband] **a person**, without good cause, shall abandon his [wife] **or her spouse**, and refuse or neglect to maintain and provide for **him or** her, the circuit court, on **his or** her petition for that purpose, shall order and adjudge such support and maintenance to be provided and paid by [the husband] **such person** for the [wife and her] **spouse and the spouse's** children, or any of them, by that marriage, out of his property, and for such time as the nature of the case and the circumstances of the parties shall require, and compel the [husband] **person**

to give security for such maintenance, and from time to time make such further orders touching the same as shall be just, and enforce such judgment by execution, sequestration of property, or by such other lawful means as are in accordance with the practice of the court; and as long as said maintenance is continued, the [husband] **person** shall not be charged with the [wife's] **spouse's** debts, contracted after the judgment for such maintenance.

452.140. NO PROPERTY EXEMPT FROM ATTACHMENT OR EXECUTION, WHEN. — No property shall be exempt from attachment or execution in a proceeding instituted by a [married woman] **person** for maintenance, nor from attachment or execution upon a judgment or order issued to enforce a decree for alimony or for the support and maintenance of children. And all wages due to the defendant shall be subject to garnishment on attachment or execution in any proceedings mentioned in this section, whether the wages are due from the garnishee to the defendant for the last thirty days' service or not.

452.170. PETITION FOR ENJOYMENT OF SPOUSE'S SEPARATE ESTATE, WHEN. — If any married [woman] **person** shall hold real estate in **his or** her own right, and **his or** her [husband] **spouse**, by criminal conduct toward **him or** her, or by ill usage, shall give **him or** her cause to live separate and apart from **him or** her, [she] **such person** may petition the circuit court, setting forth such facts, and therein pray that such estate may be enjoyed by **him or** her for **his or** her sole use and benefit.

452.180. CIRCUIT COURT MAY MAKE DECREE. — The circuit court, on due proof of such facts, may, in its discretion, make such order and decree in the premises as shall give such married [woman] **person** the sole use and benefit of such real estate, or such part thereof as it may think reasonable.

452.190. AUTHORIZATION BY COURT TO SELL PROPERTY. — When any married [man] **person** shall abandon his [wife] **or her spouse**, or from worthlessness, drunkenness or other cause fail to make sufficient provision for **his or** her support, the circuit court of the county where **he or** she has **his or** her home and residence may, on **his or** her petition, authorize **him or** her to sell and convey **his or** her real estate, or any part thereof, and also any personal estate which shall, at the time, have come to [the husband] **such person** by reason of the marriage, and which may remain within the state undisposed of by him.

452.200. MARRIED PERSON ENJOINED FROM SQUANDERING PROPERTY AT SUIT OF SPOUSE. — Any married [woman] **person** may file [her] a petition in the circuit court, setting forth that **his or** her [husband] **spouse**, from habitual intemperance, or any other cause, is about to squander and waste the property, money, credits or choses in action to which **he or** she is entitled in **his or** her own right, or any part thereof, or is proceeding fraudulently to convert the same, or any part thereof, to [his] **the spouse's** own use, for the purpose of placing the same beyond **his or** her reach, and depriving **him or** her of the benefit thereof; and the court, upon the hearing of the case, may enjoin the [husband] **spouse** from disposing of or otherwise interfering with such property, moneys, credits and choses in action, and may appoint a receiver to control and manage the same for the benefit of the [wife] **petitioner**, and may also make such other order in the premises as they may deem just and proper, and upon the filing of such petition an injunction may be allowed as in other cases, and such petition shall be filed in the county where said petitioner resides, and the [husband] **spouse** of said petitioner shall be made a party defendant to said petition.

452.210. COURT MAY AUTHORIZE PERSONS HOLDING MONEY OF MARRIED PERSON TO PAY SPOUSE. — The court may also, upon the petition of such [wife] **person**, authorize any

person holding money or other personal estate to which the [husband] **spouse** is entitled in **his or her** right to pay and deliver the same to the [wife] **petitioner**, and may authorize **him or her** to give a discharge for the same, which discharge shall be as valid as if made by the [husband] **spouse**.

452.220. MARRIED PERSON ENTITLED TO PROCEEDS OF EARNINGS OF HIS OR HER MINOR CHILDREN, WHEN. — Such married [woman] **person**, during the period **his or her** [husband] **spouse** shall fail to provide for **his or her** support, as stated in section 452.130, shall be entitled to the proceeds of the earnings of **his or her** minor children; and the same shall be under **his or her** sole control and shall not be liable in any manner for [his] **the spouse's** debts.

452.230. PROCEEDS USED FOR SUPPORT OF HIMSELF OR HERSELF AND FAMILY. — All the proceeds of such sales, and all other money and personal estate which shall come to the hands of [the wife] **a person** by force of the provisions of sections 451.250 to 451.300, RSMo, and sections 452.130, 452.140, 452.170 to 452.190 and 452.210 to 452.250, may be used and disposed of by **him or her** for the necessary support of **himself or herself** and family.

452.240. FILING OF PETITION, PROCEEDINGS. — The petition of a married [woman] **person** for any of the purposes before mentioned may be filed and the case heard and determined in the circuit court, and the like process and proceedings shall be had as in other civil suits triable before circuit judges.

452.250. PROCEEDINGS ON SUCH PETITION — APPEAL ALLOWED, WHEN AND WHERE. — The same proceedings shall be had in relation to such petition as the law requires in other proceedings before circuit judges, and in relation to enforcing the orders and decrees, except that no appeal shall be allowed to the supreme court, or court of appeals, from any order or decree, on the part of the [husband] **person's spouse**, until he **or she** has indemnified the petitioner for all delays and costs, in such manner as the court shall direct.

474.140. INHERITANCE AND STATUTORY RIGHTS BARRED ON MISCONDUCT OF SPOUSE. — If any married person voluntarily leaves his **or her** spouse and goes away and continues with an adulterer or abandons his **or her** spouse without reasonable cause and continues to live separate and apart from his **or her** spouse for one whole year next preceding his **or her** death, or dwells with another in a state of adultery continuously, [or if any wife after being ravished consents to her ravisher,] such spouse is forever barred from his **or her** inheritance rights, homestead allowance, exempt property or any statutory allowances from the estate of his **or her** spouse unless such spouse is voluntarily reconciled to him **or her** and resumes cohabitation with him **or her**.

Approved July 13, 2001

HB 567 [CCS SS SCS HCS HB 567]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes various changes to different boards supervised by the Division of Professional Registration.

AN ACT to repeal sections 109.120, 109.241, 167.181, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 209.251, 214.275, 214.276, 214.367,

214.392, 256.459, 324.083, 324.086, 324.177, 324.212, 324.217, 324.243, 324.522, 326.011, 326.012, 326.021, 326.022, 326.040, 326.050, 326.055, 326.060, 326.100, 326.110, 326.120, 326.121, 326.125, 326.130, 326.131, 326.133, 326.134, 326.151, 326.160, 326.170, 326.180, 326.190, 326.200, 326.210, 326.230, 327.011, 327.031, 327.041, 327.081, 327.131, 327.314, 327.381, 327.600, 327.603, 327.605, 327.607, 327.609, 327.612, 327.615, 327.617, 327.621, 327.623, 327.625, 327.627, 327.629, 327.630, 327.631, 329.010, 329.040, 329.050, 329.085, 329.190, 329.210, 331.050, 331.090, 332.072, 332.311, 334.021, 334.047, 334.625, 334.749, 334.870, 334.880, 334.890, 337.612, 337.615, 337.618, 337.622, 338.030, 338.043, 338.055, 338.210, 338.220, 338.285, 338.353, 339.090, 345.080 and 620.010, RSMo 2000, relating to the division of professional registration, and to enact in lieu thereof one hundred thirty-seven new sections relating to the same subject, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 109.120. Records reproduced by photographic, video or electronic process, standards — cost.
- 109.241. Local agency head, duties of.
- 167.181. Immunization of pupils against certain diseases compulsory — exceptions — records — to be at public expense, when — fluoride treatments administered, when — rulemaking authority, procedure.
- 191.600. Loan repayment program established — health professional student loan repayment program fund established — use.
- 191.603. Definitions.
- 191.605. Department to designate as areas of need — factors to be considered.
- 191.607. Qualifications for eligibility established by department.
- 191.609. Contract for repayment of loans, contents.
- 191.611. Loan repayment program to cover certain loans — amount paid per year of obligated service — schedule of payments — communities sharing costs to be given first consideration.
- 191.614. Termination of medical studies or failure to become licensed doctor, liability — breach of contract for service obligation, penalties — recovery of amount paid by contributing community.
- 191.615. Application for federal funds — insufficient funds, effect.
- 191.938. Automated external defibrillator advisory committee established, duties, reports, membership, bylaws — termination date.
- 192.070. Care of babies and hygiene of children, educational literature to be issued by department.
- 209.251. Definitions.
- 214.209. Abandonment of burial site, rights revert to cemetery.
- 214.275. License, cemeteries — division's powers and duties — limitations.
- 214.276. Refusal to issue license — notice — hearing.
- 214.367. Prospective purchaser of endowed care cemetery, right to recent audit — right to continue operation, notification by division.
- 214.392. Division of professional registration, duties and powers in regulation of cemeteries — rulemaking authority.
- 256.459. Board of geologist registration created — members, qualifications, appointment — public members — terms — bond not required — attorney general to represent board — expenses, reimbursement, compensation.
- 324.086. Refusal to issue license, when — notification of applicant — complaint procedure.
- 324.177. Advisory commission for clinical perfusionists established, duties, members, expenses, compensation, removal.
- 324.212. Applications for licensure, fees — renewal notices — dietitian fund established.
- 324.217. Refusal to issue or renew license, when — complaint filed against licensee, when — hearing procedures — maintenance of complaints filed — recommendation for prosecution.
- 324.243. Board of therapeutic massage, members, terms, meetings, removal, compensation.
- 324.522. Licensing required, when — rulemaking authority.
- 324.530. Inspectors for wood-destroying insects, licenses required.
- 324.700. Definitions.
- 324.703. License required for persons engaged in the business of housemoving.
- 324.706. License issued, when.
- 324.709. Effective date of license — annual renewal.
- 324.712. Certificate of insurance required — notification to division, when.
- 324.715. Special permit required, issued when — license not required, when.
- 324.718. Application procedure for special permit — travel plan required, alternate plans permitted.
- 324.721. Obstructions to be removed and replaced at expense of housemover.

- 324.724. Alternate route used, when.
 - 324.727. No house in highway right-of-way without permission.
 - 324.730. Visibility restrictions for move.
 - 324.733. Voiding of permit, when.
 - 324.736. Local ordinances complied with, moves on municipal streets.
 - 324.739. Speed of moves, limitations.
 - 324.742. Violations, penalty.
 - 324.745. Severability clause — applicability exceptions.
 - 326.250. Citation of law.
 - 326.253. Policy statement, purpose clause.
 - 326.256. Definitions.
 - 326.259. Missouri state board of accountancy established, members, terms, removal.
 - 326.262. Rulemaking authority — office maintained in Jefferson City.
 - 326.265. Officers elected by board, employment of legal counsel and personnel — continuing education committee, duties.
 - 326.268. Meetings — examination of applicants, content, fees — compensation of board members.
 - 326.271. Rulemaking authority, conduct of matters and continuing education.
 - 326.274. Investigation of complaints by board.
 - 326.277. Eligibility for examination, education requirements.
 - 326.280. License issued, when — reexamination and fees — temporary license issued, when.
 - 326.283. Reciprocity for out-of-state accountants.
 - 326.286. Issuance and renewal of licenses, when, term — license holder by foreign authority, state license issued, when.
 - 326.289. Issuance and renewal of permits, procedure.
 - 326.292. Issuance of reports on financial statements, license required — use of CPA or CA title, when — violations, penalty.
 - 326.295. Confidential information, peer review — immunity from civil liability, when.
 - 326.298. Acts which may be enjoined by court.
 - 326.304. Attorney general or other legal counsel to represent board in certain proceedings.
 - 326.307. Use of certain titles, prima facie evidence that persons hold themselves out as accountants.
 - 326.310. Refusal to issue permit, when — complaint filed with administrative hearing commission, when, procedure.
 - 326.313. Revocation of permit, when.
 - 326.316. Issuance of new license after revocation, when.
 - 326.319. Division to collect moneys — fund created — costs paid by respondent in proceedings, when — fees set by board.
 - 326.322. Client confidentiality rules.
 - 326.325. Work product, property of licensee — consent of client necessary for disclosure.
 - 326.328. Secretary of state to act as applicant's agent, when.
 - 326.331. Severability clause.
 - 327.011. Definitions.
 - 327.031. Board established, membership, officers, qualifications of members — how appointed — terms — vacancy, how filled — may sue and be sued — abolishment of council — transfer of fund.
 - 327.041. Board, powers and duties — rules, generally, this chapter, procedure.
 - 327.081. Fund established, deposits — expenditures, how paid — transferred to general revenue, when.
 - 327.131. Applicant for license as architect, qualifications.
 - 327.314. Professional land surveyor, applicant for examination and license, qualifications.
 - 327.381. Board may license architect, professional engineer, land surveyor or landscape architect without examination, when.
 - 327.600. Definitions.
 - 327.603. License required to use title of landscape architect.
 - 327.607. Examination — authority of board to obtain services of specially trained persons.
 - 327.612. Applicants for examination and licensure as landscape architect — qualifications.
 - 327.615. Application, form, content, oath or affirmation of truth, penalties for making false affidavit, fee.
 - 327.617. Examination — notice to be sent to applicant — to be given annually, content.
 - 327.621. License issuance and renewal, fee — failure to renew, effect — reinstatement fee must be paid when — license not renewed to expire, when — renewal or reregistration form and fee.
 - 327.623. Licensure without examination, persons licensed in another state, when.
 - 327.629. Licensure as landscape architect required to use title — limitations as to practice.
 - 327.630. Right to practice as landscape architect personal right and not transferable — may practice as member of partnership or corporation.
 - 327.631. Refusal to issue, renew or reinstate license, procedure — grounds for — penalties that council may invoke.
 - 329.010. Definitions.
 - 329.040. Schools of cosmetology — license requirements, application, form — hours required for student cosmetologists, nail technicians and estheticians.
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- 329.050. Applicants for examination or licensure — qualifications.
- 329.085. Instructor license, qualifications, fees, exceptions.
- 329.190. State board — appointment — term — compensation — qualifications.
- 329.210. Powers of board, rulemaking.
- 331.032. Temporary license issued, when.
- 331.050. License, renewal, requirements, fee — license lapse, reinstatement procedure.
- 331.090. State board of chiropractic examiners created — appointment — qualifications — terms — removal.
- 332.072. Gratuitous dental services, dentists and dental hygienists licensed in other states may perform, when — prohibited, when — dental hygiene services, supervision required, when.
- 332.086. Advisory commission for dental hygienists established, duties, members, terms, meetings, expenses.
- 332.311. Dental hygienist to practice under dentist supervision only — no supervision required for fluoride treatments, teeth cleaning and sealants.
- 332.324. Donated dental services program established — contract with Missouri dental board, contents.
- 334.021. Reference to terms in prior laws, how construed — no hiring discrimination permitted based on medical degree held.
- 334.047. License to show degree held by licensee — use on stationery and displays required.
- 334.625. Advisory commission for physical therapists created — powers and duties — appointment — terms — expenses — compensation — staff — meetings — quorum.
- 334.720. Compensation of board members.
- 334.749. Advisory commission for physician assistants, established, responsibilities — appointments to commission, members — compensation — annual meeting, elections.
- 334.870. Licensing requirements, background checks.
- 334.880. License renewal — inactive status.
- 334.890. Six-month education permit, requirements — supervision required, when — conditional permit issued, when.
- 337.612. Applications, contents, fee — fund established — renewal, fee — lost certificate, how replaced.
- 337.615. Education, experience requirements — reciprocity.
- 337.618. License expiration, renewal, fees, continuing education requirements.
- 337.622. State committee for social workers — membership, removal and vacancies.
- 337.650. Definitions.
- 337.653. Baccalaureate social workers, license required, permitted activities.
- 337.659. No employer required to employ licensed social workers.
- 337.662. Application for licensure, contents — renewal notices — replacement certificates provided, when — fees set by committee.
- 337.665. Information required to be furnished committee — reciprocity, when — license issued, when.
- 337.668. Term of license — renewal.
- 337.671. Temporary permits issued, when.
- 337.674. No mandatory third-party reimbursement for services.
- 337.677. Rulemaking authority.
- 337.680. Refusal to issue or renew license, when — complaint procedure.
- 337.683. Violations, penalty — committee may sue, when — actions permitted to be enjoined.
- 337.686. Confidentiality requirements, exceptions.
- 337.689. Licensees may be compelled to testify.
- 338.030. Applicant — requirements for qualification.
- 338.043. Temporary license — eligibility — renewal.
- 338.055. Denial, revocation or suspension of license, grounds for — expedited procedure — additional discipline authorized, when.
- 338.210. Pharmacy defined — practice of pharmacy to be conducted at pharmacy location — rulemaking authority.
- 338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
- 338.285. Board may file complaint, when, where filed.
- 338.353. Discipline of licensee, grounds — procedure — administrative hearing commission to conduct hearing.
- 339.090. License of nonresident — fee — reciprocity — rulemaking authority.
- 345.080. Advisory commission for speech-language pathologists and audiologists established — members — terms — appointment — duties — removal — expenses — compensation — meetings, notice of — quorum — staff.
- 620.010. Department of economic development created — divisions — agencies — boards and commissions — personnel — powers and duties — professional registration fee fund established — rules, procedure.
- 620.151. Controlled substances, testing positive, effect of.
- 324.083. Refusal of a license or permit, when — notification of refusal — filing of a complaint, when, procedure.
- 326.011. Definitions.
- 326.012. Temporary practice by certified public accountants licensed in other states — other exempted activities.
- 326.021. Use of title certified public accountant or abbreviation CPA, when authorized — use of certain titles prohibited.
- 326.022. Injunction authorized, when.

- 326.040. Qualifications for registration.
- 326.050. Corporations entitled to registration, when.
- 326.055. Registration and peer review required — each office to be supervised by a resident CPA.
- 326.060. Qualifications for a certificate — titles and abbreviations authorized — temporary certificates, when — reciprocity, when.
- 326.100. Ownership of working papers.
- 326.110. Board rulemaking authority, procedure.
- 326.120. Penalty for violations.
- 326.121. Use of prohibited titles — single act to sustain conviction or injunction.
- 326.125. Legal representation for board, how obtained.
- 326.130. Denial, revocation, or suspension of certificate, grounds for.
- 326.131. Revocation, suspension or refusal to issue certificate, authorized when.
- 326.133. New or modified certificates to applicants whose certificates have been revoked or suspended, authorized — when.
- 326.134. Investigation reports to be confidential, exceptions — immunity from civil actions for board and certain persons, when.
- 326.151. Communications of client to accountant or employee privileged — shall not be examined thereon without client's consent.
- 326.160. State board of accountancy — members — qualifications — terms.
- 326.170. Powers of board — office in Jefferson City.
- 326.180. Board of accountancy — functions.
- 326.190. Meetings — examination of applicants.
- 326.200. Application for certificate, procedure — fees — fund established, transferred to general revenue, when — board's compensation, expenses.
- 326.210. Permits to practice, expiration date — late renewal penalty — qualifications — continuing education — rules — revocation of manager's permit, grounds.
- 326.230. Severability clause.
- 327.605. Landscape architectural council created — appointment — term — qualifications — removal for cause — vacancies — compensation, expenses — meetings — no personal liability for official acts.
- 327.609. Division of professional registration, powers and duties — rulemaking authority, generally, this chapter — procedure.
- 327.625. Fees to be established by division by rule — deposit in the landscape architectural council fund as created — fund to lapse into general revenue, when.
- 327.627. Advertising or indicating to public as landscape architect if not registered is unlawful.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 109.120, 109.241, 167.181, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 209.251, 214.275, 214.276, 214.367, 214.392, 256.459, 324.083, 324.086, 324.177, 324.212, 324.217, 324.243, 324.522, 326.011, 326.012, 326.021, 326.022, 326.040, 326.050, 326.055, 326.060, 326.100, 326.110, 326.120, 326.121, 326.125, 326.130, 326.131, 326.133, 326.134, 326.151, 326.160, 326.170, 326.180, 326.190, 326.200, 326.210, 326.230, 327.011, 327.031, 327.041, 327.081, 327.131, 327.314, 327.381, 327.600, 327.603, 327.605, 327.607, 327.609, 327.612, 327.615, 327.617, 327.621, 327.623, 327.625, 327.627, 327.629, 327.630, 327.631, 329.010, 329.040, 329.050, 329.085, 329.190, 329.210, 331.050, 331.090, 332.072, 332.311, 334.021, 334.047, 334.625, 334.749, 334.870, 334.880, 334.890, 337.612, 337.615, 337.618, 337.622, 338.030, 338.043, 338.055, 338.210, 338.220, 338.285, 338.353, 339.090, 345.080 and 620.010, RSMo 2000, are repealed and one hundred thirty-seven new sections enacted in lieu thereof, to be known as sections 109.120, 109.241, 167.181, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 191.938, 192.070, 209.251, 214.209, 214.275, 214.276, 214.367, 214.392, 256.459, 324.086, 324.177, 324.212, 324.217, 324.243, 324.522, 324.530, 324.700, 324.703, 324.706, 324.709, 324.712, 324.715, 324.718, 324.721, 324.724, 324.727, 324.730, 324.733, 324.736, 324.739, 324.742, 324.745, 326.250, 326.253, 326.256, 326.259, 326.262, 326.265, 326.268, 326.271, 326.274, 326.277, 326.280, 326.283, 326.286, 326.289, 326.292, 326.295, 326.298, 326.304, 326.307, 326.310, 326.313, 326.316, 326.319, 326.322, 326.325, 326.328, 326.331, 327.011, 327.031, 327.041, 327.081, 327.131, 327.314, 327.381, 327.600, 327.603, 327.607, 327.612, 327.615, 327.617, 327.621, 327.623, 327.629, 327.630, 327.631, 329.010, 329.040, 329.050, 329.085, 329.190, 329.210, 331.032, 331.050, 331.090, 332.072,

332.086, 332.311, 332.324, 334.021, 334.047, 334.625, 334.720, 334.749, 334.870, 334.880, 334.890, 337.612, 337.615, 337.618, 337.622, 337.650, 337.653, 337.659, 337.662, 337.665, 337.668, 337.671, 337.674, 337.677, 337.680, 337.683, 337.686, 337.689, 338.030, 338.043, 338.055, 338.210, 338.220, 338.285, 338.353, 339.090, 345.080, 620.010 and 620.151, to read as follows:

109.120. RECORDS REPRODUCED BY PHOTOGRAPHIC, VIDEO OR ELECTRONIC PROCESS, STANDARDS — COST. — 1. The head of any business, industry, profession, occupation or calling, or the head of any state, county or municipal department, commission, bureau or board may cause any and all records kept by such official, department, commission, bureau, board or business to be photographed, microphotographed, photostated or transferred to other material using photographic, video, or electronic processes, **including a computer-generated electronic or digital retrieval system**, and the judges and justices of the several courts of record within this state may cause all closed case files more than five years old to be photographed, microphotographed, photostated, or transferred to other material using photographic, video, or electronic processes, **including a computer-generated electronic or digital retrieval system**. Such reproducing material shall be of durable material and the device used to reproduce the records shall be such as to accurately reproduce and perpetuate the original records in all details and ensure their proper retention and integrity in accordance with standards established by the state records commission.

2. The cost of reproduction of closed files of the several courts of record as provided herein shall be chargeable to the county and paid out of the county treasury wherein the court is situated.

3. When any recorder of deeds in this state is required or authorized by law to record, copy, file, recopy, replace or index any document, plat, map or written instrument, the recorder may do so by photostatic, photographic, microphotographic, microfilm, or electronic process, **including a computer-generated electronic or digital retrieval system**, which produces a clear, accurate and permanent copy of the original, provided they meet the standards for permanent retention and integrity as promulgated by the local records board. The reproductions so made may be used as permanent records of the original. When microfilm or electronic reproduction is used as a permanent record by recorder of deeds, duplicate reproductions of all recorded documents, indexes and files required by law to be kept by the recorder shall be made and one copy of each document shall be stored in a fireproof vault and the other copy shall be readily available in the recorder's office together with suitable equipment for viewing the record by projection to a size not smaller than the original and for reproducing copies of the recorded or filmed documents for any person entitled thereto. In all cases where instruments are recorded pursuant to this section by microfilm or electronic process, any release, assignment or other instrument affecting a previously recorded instrument by microfilm or electronic process shall be filed and recorded as a separate instrument and shall be cross-indexed to the document which it affects.

109.241. LOCAL AGENCY HEAD, DUTIES OF. — The head of each local agency shall:

(1) Submit within six months after a call to do so from the secretary of state in accordance with standards established by the local records board and promulgated by the director of records management and archives, schedules proposing the length of time each local records series warrants retention for administrative, legal, historical or fiscal purposes after it has been received or created by the local agency;

(2) Submit lists of local records that are not needed in the transaction of current business and that do not have sufficient administrative, legal, historical or fiscal value to warrant their further retention;

(3) Cooperate with the director in the conduct of surveys made by the director pursuant to the provisions of sections 109.200 to 109.310;

(4) When files in the custody of a local governmental agency are microfilmed or otherwise reproduced through photographic, video, electronic, or other reproduction processes, **including a computer-generated electronic or digital retrieval system**, the public official having custody of the reproduced records shall, before disposing of the originals, certify to the director that the official has made provisions for preserving the microfilms or electronically created records for viewing and recalling images to paper or original form, as appropriate, and that the official has done so in a manner guaranteeing the proper retention and integrity of the records in accordance with standards established by the local records board. Certification shall include a statement, written plan, or reputable vendor's certificate, as appropriate, that any microfilm or document reproduced through electronic process meets the standards for archival permanence established by the United States of America Standards Institute or similar agency, or local records board. If records are microfilmed, original camera masters shall not be used for frequent reference or reading purposes, but copies shall be made for such purposes.

167.181. IMMUNIZATION OF PUPILS AGAINST CERTAIN DISEASES COMPULSORY — EXCEPTIONS — RECORDS — TO BE AT PUBLIC EXPENSE, WHEN — FLUORIDE TREATMENTS ADMINISTERED, WHEN — RULEMAKING AUTHORITY, PROCEDURE. — 1. The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo. **When a child receives his or her**

immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

191.600. LOAN REPAYMENT PROGRAM ESTABLISHED — HEALTH PROFESSIONAL STUDENT LOAN REPAYMENT PROGRAM FUND ESTABLISHED — USE. — 1. Sections 191.600 to 191.615 establish a loan repayment program for graduates of approved medical schools, schools of osteopathic medicine, **schools of dentistry** and accredited chiropractic colleges who practice in areas of defined need and shall be known as the "[Medical School] **Health Professional Student Loan Repayment Program**". **Sections 191.600 to 191.615 shall apply to graduates of accredited chiropractic colleges when federal guidelines for chiropractic shortage areas are developed.**

2. The "[Medical School] **Health Professional Student Loan and Loan Repayment Program Fund**" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 191.614 and all funds generated by loan repayments and penalties received pursuant to section 191.540 shall be credited to the fund. The moneys in the fund shall be used by the department of health to provide loan repayments pursuant to section 191.611 in accordance with sections 191.600 to 191.614 and to provide loans pursuant to sections 191.500 to 191.550.

191.603. DEFINITIONS. — As used in sections 191.600 to 191.615, the following terms shall mean:

(1) "Areas of defined need", areas designated by the department pursuant to section 191.605, when services of a physician, **chiropractor or dentist** are needed to improve the [patient-doctor] **patient-health professional** ratio in the area, to contribute **health care** professional [physician] services to an area of economic impact, or to contribute **health care** professional [physician] services to an area suffering from the effects of a natural disaster;

(2) "**Chiropractor**", a person license and registered pursuant to chapter 331, RSMo;

(3) "Department", the department of health;

[(3)] (4) "**General dentist**", **dentists licensed and registered pursuant to chapter 332, RSMo, engaged in general dentistry and who are providing such services to the general population;**

(5) "Primary care physician", physicians licensed and registered pursuant to chapter 334, RSMo, engaged in general or family practice, internal medicine, pediatrics or obstetrics and gynecology as their primary specialties, and who are providing such primary care services to the general population.

191.605. DEPARTMENT TO DESIGNATE AS AREAS OF NEED — FACTORS TO BE CONSIDERED. — The department shall designate counties, communities, or sections of urban

areas as areas of defined need **for medical, chiropractic or dental services** when such county, community or section of an urban area has[, but is not limited to, the following:

- (1) A population to primary care physician ratio of three thousand five hundred to one or more; or
- (2) A population to primary care physician ratio of less than three thousand five hundred to one, but greater than two thousand five hundred to one; and
 - (a) Has a twenty percent or greater population fifty-five years of age or over; or
 - (b) Twenty percent of the population or households are below the poverty level; or
 - (c) If the largest hospital in the area is approximately thirty miles or more from a comparable or larger facility or if the central community in the area is approximately fifteen miles or more from a hospital having more than four thousand discharges a year or more than four hundred deliveries annually; and
 - (d) Has a community or city of six thousand or more population plus the surrounding area up to a radius of approximately fifteen miles that serves as the central community or an urban or metropolitan neighborhood located within the central city or cities of a standard metropolitan statistical area having limited interaction with contiguous areas and a minimum population of approximately twenty thousand;
- (3) Any other community or section of an urban area with unusual circumstances can be evaluated on a case-by-case basis for designation by the department as an area of defined need] **been designated as a primary care health professional shortage area or a dental health care professional shortage area by the federal Department of Health and Human Services, or has been determined by the director of the department of health to have an extraordinary need for health care professional services, without a corresponding supply of such professionals.**

191.607. QUALIFICATIONS FOR ELIGIBILITY ESTABLISHED BY DEPARTMENT. — The department shall adopt and promulgate regulations establishing standards for determining eligible persons for loan repayment [under] **pursuant to** sections 191.600 to 191.615. These standards shall include, but are not limited to the following:

- (1) Citizenship or permanent residency in the United States;
- (2) Residence in the state of Missouri;
- (3) Enrollment as a full-time medical student in the final year of a course of study offered by an approved educational institution or licensed to practice medicine or osteopathy pursuant to chapter 334, RSMo;
- (4) **Enrollment as a full-time dental student in the final year of course study offered by an approved educational institution or licensed to practice general dentistry pursuant to chapter 332, RSMo;**
- (5) **Enrollment as a full-time chiropractic student in the final year of course study offered by an approved educational institution or licensed to practice chiropractic medicine pursuant to chapter 331, RSMo;**
- (6) Application for loan repayment.

191.609. CONTRACT FOR REPAYMENT OF LOANS, CONTENTS. — 1. The department shall enter into a contract with each individual qualifying for repayment of educational loans. The written contract between the department and an individual shall contain, but not be limited to, the following:

- (1) An agreement that the state agrees to pay on behalf of the individual loans in accordance with section 191.611 and the individual agrees to serve for a time period equal to two years, or such longer period as the individual may agree to, in an area of defined need, such service period to begin within one year of the signed contract;
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(2) A provision that any financial obligations arising out of a contract entered into and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments;

(3) The area of defined need where the person will practice;

(4) A statement of the damages to which the state is entitled for the individual's breach of the contract;

(5) Such other statements of the rights and liabilities of the department and of the individual not inconsistent with sections 191.600 to 191.615.

2. The department may stipulate specific practice sites contingent upon department generated [physician] **health care professional** need priorities where applicants shall agree to practice for the duration of their participation in the program.

191.611. LOAN REPAYMENT PROGRAM TO COVER CERTAIN LOANS — AMOUNT PAID PER YEAR OF OBLIGATED SERVICE — SCHEDULE OF PAYMENTS — COMMUNITIES SHARING COSTS TO BE GIVEN FIRST CONSIDERATION. — 1. A loan payment provided for an individual under a written contract under the [medical school] **health professional student** loan payment program shall consist of payment on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for tuition, fees, books, laboratory, and living expenses incurred by the individual.

2. For each year of obligated services that an individual contracts to serve in an area of defined need, the director may pay [up to twenty thousand dollars] **an amount not to exceed the maximum amounts allowed under the National Health Service Corps Loan Repayment Program, 42 U.S.C. Section 2541-1, P.L. 106-213**, on behalf of the individual for loans described in subsection 1 of this section.

3. The department may enter into an agreement with the holder of the loans for which repayments are made [under] **pursuant to** the [medical school] **health professional student** loan payment program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the state.

4. Any qualifying communities providing a portion of a loan repayment shall be considered first for placement.

191.614. TERMINATION OF MEDICAL STUDIES OR FAILURE TO BECOME LICENSED DOCTOR, LIABILITY — BREACH OF CONTRACT FOR SERVICE OBLIGATION, PENALTIES — RECOVERY OF AMOUNT PAID BY CONTRIBUTING COMMUNITY. — 1. An individual who has entered into a written contract with the department; and in the case of an individual who is enrolled in the final year of a course of study and fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study or fails to become licensed pursuant to chapter **331, 332 or 334**, RSMo, within one year shall be liable to the state for the amount which has been paid on his **or her** behalf under the contract.

2. If an individual breaches the written contract of the individual by failing either to begin such individual's service obligation or to complete such service obligation, the state shall be entitled to recover from the individual an amount equal to the sum of:

(1) The total of the amounts prepaid by the state on behalf of the individual;

(2) The interest on the amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum prevailing rate as determined by the Treasurer of the United States;

(3) An amount equal to [the unserved obligation penalty, the amount equal to the product number of months of obligated service which were not completed by an individual, multiplied by five hundred dollars] **any damages incurred by the department as a result of the breach;**

(4) Any legal fees or associated costs incurred by the department or the state of Missouri in the collection of damages.

3. The department may act on behalf of a qualified community to recover from an individual described in subsections 1 and 2 of this section the portion of a loan repayment paid by such community for such individual.

191.615. APPLICATION FOR FEDERAL FUNDS — INSUFFICIENT FUNDS, EFFECT. — 1. The department shall submit a grant application to the Secretary of the United States Department of Health and Human Services as prescribed by the secretary to obtain federal funds to finance the [medical school] **health professional student** loan repayment program.

2. Sections 191.600 to 191.615 shall not be construed to require the department to enter into contracts with individuals who qualify for the [medical school] **health professional student** loan repayment program when federal and state funds are not available for such purpose.

191.938. AUTOMATED EXTERNAL DEFIBRILLATOR ADVISORY COMMITTEE ESTABLISHED, DUTIES, REPORTS, MEMBERSHIP, BYLAWS — TERMINATION DATE. — 1. There is hereby established an "Automated External Defibrillator Advisory Committee" within the department of health.

2. The committee shall advise the department of health, the office of administration and the legislature on the advisability of placing automated external defibrillators in public buildings, especially in public buildings owned by the state of Missouri or housing employees of the state of Missouri with special consideration to state office buildings accessible to the public.

3. The committee shall issue an initial report no later than June 1, 2002, and a final report no later than December 31, 2002, to the department of health, the office of administration and the governor's office. The issues to be addressed in the report shall include, but need not be limited to:

(1) The advisability of placing automated external defibrillators in public buildings and the determination of the criteria as to which public buildings should have automated external defibrillators and how such automated external defibrillators' placement should be accomplished;

(2) Projections of the cost of the purchase, placement and maintenance of any recommended automated external defibrillator placement;

(3) Discussion of the need for, and cost of, training personnel in the use of automated external defibrillators and in cardiopulmonary resuscitation;

(4) The integration of automated external defibrillators with existing emergency service.

4. The committee shall be composed of the following members appointed by the director of the department of health:

(1) A representative of the department of health;

(2) A representative of the office of administration, division of facilities management;

(3) A representative of the American Red Cross;

(4) A representative of the American Heart Association;

(5) A physician who has experience in the emergency care of patients.

5. The department of health member shall be the chair of the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

6. The department of health shall provide technical and administrative support services as required by the committee. The office of administration shall provide technical support to the committee in the form of information and research on the number, size, use and occupancy of buildings in which employees of the state of Missouri work.

7. Members of the committee shall receive no compensation for their services as members, but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

8. The committee shall adopt written bylaws to govern its activities.

9. The automated external defibrillator advisory committee shall terminate on June 1, 2003.

192.070. CARE OF BABIES AND HYGIENE OF CHILDREN, EDUCATIONAL LITERATURE TO BE ISSUED BY DEPARTMENT. — The bureau of child hygiene in the department of health shall issue educational literature on the care of the baby and the hygiene of the child **including, but not limited to, the importance of routine dental care for children**; study the causes of infant mortality and the application of measures for the prevention and suppression of the diseases of infancy and childhood; and inspect the sanitary and hygienic conditions in public school buildings and grounds.

209.251. DEFINITIONS. — As used in sections 209.251 to 209.259, the following terms mean:

(1) "Adaptive telecommunications equipment", equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities. The term adaptive telecommunications equipment includes adaptive telephone equipment and other types of adaptive devices such as computer input and output adaptations necessary for telecommunications access;

(2) "Basic telecommunications access line", a telecommunications line which provides service from the telephone company central office to the customer's premises which enables the customer to originate and terminate long distance and local telecommunications;

(3) "Commission", the public service commission;

(4) "Consumer support and outreach", services that include, but are not limited to, assisting individuals with disabilities or their families or caregivers in the selection of the most appropriate adaptive telecommunications equipment to meet their needs, providing basic training and technical assistance in the installation and use of adaptive telecommunications equipment, and development and dissemination of information to increase awareness and use of adaptive telecommunications equipment;

(5) "Department", the department of labor and industrial relations;

(6) "Eligible subscriber", any individual who has been certified as deaf, hearing-impaired, speech-impaired or as having another disability that causes the inability to use telecommunications equipment and services by a licensed physician, audiologist, speech pathologist, **hearing instrument specialist** or a qualified agency;

(7) "Missouri assistive technology advisory council" or "council", the body which directs the Missouri assistive technology program pursuant to sections 191.850 to 191.865, RSMo;

(8) "Program administrator", the entity or entities designated to design the statewide telecommunications equipment distribution program, develop and implement the program policies and procedures, assure delivery of consumer support and outreach and account for and pay all program expenses;

(9) "Surcharge", an additional charge which is to be paid by local exchange telephone company subscribers pursuant to the rate recovery mechanism established pursuant to sections 209.255, 209.257 and 209.259 in order to implement the programs described in sections 209.251 to 209.259;

(10) "Telecommunications", the transmission of any form of information including, but not limited to, voice, graphics, text, dynamic content, and data structures of all types whether they are in electronic, visual, auditory, optical or any other form;

(11) "Telecommunications device for the deaf" or "TDD", a telecommunications device capable of allowing deaf, hearing-impaired or speech-impaired individuals to transmit messages over basic telephone access lines by sending and receiving typed messages.

214.209. ABANDONMENT OF BURIAL SITE, RIGHTS REVERT TO CEMETERY. — 1. After a period of seventy-five years since the last recorded activity on a burial site and after a reasonable search for heirs and beneficiaries, the burial site shall be abandoned and the right of ownership in the burial site shall revert to the private or public cemetery, after the cemetery has met the requirements of this section.

2. A reasonable search for heirs and beneficiaries pursuant to this section shall include sending a letter of notice to the last known address of the record property owner; and publishing a copy of the description of the abandoned burial site in a newspaper qualified to publish public notices as provided in chapter 493, RSMo, published in the county of the record property owner's last known address, for three weeks; and if no person proves ownership of the burial site within one year after such publication, the burial site shall be deemed abandoned.

3. If persons with a legitimate claim to the abandoned burial site present themselves after the abandoned burial site has been used or sold by the private or public cemetery, the person's claim shall be settled by providing an equal burial site in an equivalent location to the burial site that reverted to the private or public cemetery.

214.275. LICENSE, CEMETERIES — DIVISION'S POWERS AND DUTIES — LIMITATIONS. — 1. No endowed care or nonendowed care cemetery shall be operated in this state unless the owner or operator thereof has a [certificate of authority] license issued by the division and complies with all applicable state, county or municipal ordinances and regulations.

2. [The cemetery complies with all applicable state, county or municipal ordinances and regulations.] It shall not be unlawful for a person who does not have a license to care for or maintain the cemetery premises, or to fulfill prior contractual obligations for the interment of human remains in burial spaces.

3. [The division shall grant or deny each application for a certificate of authority pursuant to this section within thirty days after it is filed, and no prosecution of any person who has filed an application for such certificate shall be initiated unless it is shown that such application was duly denied by the division and that the owner was duly notified thereof.] Applications for a license shall be in writing, submitted to the division on forms prescribed by the division. The application shall contain such information as the division deems necessary and be accompanied by the required fee.

4. [The division may refuse to renew or may suspend or revoke any certificate pursuant to sections 214.270 to 214.516 if it finds, after hearing, that the cemetery does not meet the requirements set forth in sections 214.270 to 214.516 as conditions for the issuance of a certificate, or for the violation by the owner of the cemetery of any of the provisions of section 214.276. No new certificate shall be issued to the owner of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection, the procedure for notice and hearing as prescribed by section 214.276 shall be followed.] Each license issued pursuant to sections 214.270 to 214.516 shall be renewed prior to the license renewal date established by the division. The division shall issue a new license upon receipt of a proper renewal application and the required renewal fee. The required renewal fee shall be fifty dollars, plus an assessment for each interment, inurnment or other disposition of human remains at a cemetery for which a charge is made, as the division shall by rule determine, not to exceed ten dollars per such disposition in the case of an endowed care cemetery, and six dollars for such disposition in the case of a nonendowed care cemetery. The division shall mail a renewal notice to the last known

address of the holder of the license prior to the renewal date. The holder of a license shall keep the division advised of the holder's current address. The license issued to the owner or operator of a cemetery which is not renewed within three months after the license renewal date shall be suspended automatically, subject to the right of the holder to have the suspended license reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any license suspended and not reinstated within nine months of the suspension shall expire and be void and the holder of such license shall have no rights or privileges provided to holders of valid licenses. Any person whose license has expired may, upon demonstration of current qualifications and payment of required fees, be reregistered or reauthorized under the person's original license number.

5. The division shall grant or deny each application for a license pursuant to this section within ninety days after it is filed, and no prosecution of any person who has filed an application for such license shall be initiated unless it is shown that such application was denied by the division and the owner was notified thereof.

6. Upon the filing of a completed application, as defined by rule, the applicant may operate the business until the application is acted upon by the division.

7. Within thirty days after the sale or transfer of ownership or control of a cemetery, the transferor shall return his or her license to the division. A prospective purchaser or transferee of a cemetery shall file an application for a license at least thirty days prior to the sale or transfer of ownership or control of a cemetery and shall be in compliance with sections 214.270 to 214.516.

214.276. REFUSAL TO ISSUE LICENSE — NOTICE — HEARING. — 1. The division may refuse to issue **or renew** any [certificate of registration or authority] **license**, required pursuant to sections 214.270 to 214.516 for one or any combination of causes stated in subsection 2 of this section. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any [certificate of registration or authority] **license**, required by sections 214.270 to 214.516 or any person who has failed to surrender his or her [certificate of registration or authority] **license**, for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 214.270 to 214.516;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 214.270 to 214.516, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any [certificate of registration or authority] **license**, issued pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination given or required pursuant to sections 214.270 to 214.516;

(4) Obtaining or attempting to obtain any fee, charge[, tuition] or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession regulated by sections 214.270 to 214.516;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to 214.516;

(7) Impersonation of any person holding a [certificate of registration or authority,] **license** or allowing any person to use his or her [certificate of registration or authority] **license**;

(8) Disciplinary action against the holder of a [certificate] **license** or other right to practice any profession regulated by sections 214.270 to 214.516 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible to practice pursuant to sections 214.270 to 214.516;

(11) Issuance of a [certificate of registration or authority] **license** based upon a material mistake of fact;

(12) Failure to display a valid [certificate] **license**;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) [Violation of any of the provisions of sections 214.270 to 214.516;

(16)] Willfully and through undue influence selling a [cemetery lot,] **burial space, cemetery** services or merchandise.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the [board] **division** may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend, or revoke the [certificate] **license** or permit. **No new license shall be issued to the owner or operator of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner.**

4. Operators of all existing endowed care or nonendowed care cemeteries shall, prior to August twenty-eighth following August 28, [1999] **2001**, apply for a [certificate of authority] **license** pursuant to this section. All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270 to 214.516 prior to August twenty-eighth following August 28, [1999] **2001**, shall be granted a [certificate of authority] **license** by the division upon receipt of application.

5. The division may settle disputes arising under subsections 2 and 3 of this section by consent agreement or settlement agreement between the division and the holder of a license. Within such a settlement agreement, the division may singly or in combination, impose any discipline or penalties allowed by this section or subsection 4 of section 214.410. Settlement of such disputes shall be entered into pursuant to the procedures set forth in section 621.045, RSMo.

214.367. PROSPECTIVE PURCHASER OF ENDOWED CARE CEMETERY, RIGHT TO RECENT AUDIT — RIGHT TO CONTINUE OPERATION, NOTIFICATION BY DIVISION. — A prospective purchaser **or transferee** of any endowed care cemetery, with the written consent of the cemetery operator, may obtain a copy of the cemetery's most recent audit or inspection report from the division. The division shall inform the prospective purchaser **or transferee**, within thirty days, whether the cemetery may continue to operate and be represented as an endowed care cemetery.

214.392. DIVISION OF PROFESSIONAL REGISTRATION, DUTIES AND POWERS IN REGULATION OF CEMETERIES — RULEMAKING AUTHORITY.— 1. The division shall:

(1) Recommend prosecution for violations of the provisions of sections 214.270 to 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

(2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 214.270 to 214.410;

(3) Be allowed to convey full authority to each city or county governing body the use of inmates controlled by the department of corrections and the board of probation and parole to care for abandoned cemeteries located within the boundaries of each city or county;

(4) Exercise all budgeting, purchasing, reporting and other related management functions;

(5) [Promulgate such rules and regulations as are necessary to administer the inspection and audit provisions of the endowed care cemetery law and as are necessary for the establishment and maintenance of the cemetery registry pursuant to section 214.280.] **The division may promulgate rules necessary to implement the provisions of sections 214.270 to 214.516, including but not limited to:**

(a) **Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516. The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and expense of administering sections 214.270 to 214.516. All moneys received by the division pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such moneys to the department of revenue for deposit in the state treasury to the credit of the endowed care cemetery audit fund created in section 193.265, RSMo;**

(b) **Rules to administer the inspection and audit provisions of the endowed care cemetery law;**

(c) **Rules for the establishment and maintenance of the cemetery registry pursuant to section 214.283.**

2. [No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall

not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

256.459. BOARD OF GEOLOGIST REGISTRATION CREATED — MEMBERS, QUALIFICATIONS, APPOINTMENT — PUBLIC MEMBERS — TERMS — BOND NOT REQUIRED — ATTORNEY GENERAL TO REPRESENT BOARD — EXPENSES, REIMBURSEMENT, COMPENSATION. — 1. The "Board of Geologist Registration" is hereby created to administer the provisions of sections 256.450 to 256.483. The official domicile of the board of geologist registration is the division of professional registration. The division shall provide necessary staff support services, but all administrative costs of board operation shall be paid, upon appropriation, by moneys in the board of geologist registration fund created in section 256.465.

2. The board shall be composed of eight members, seven of whom shall be voting members appointed by the governor with the advice and consent of the senate. The state geologist shall serve as "ex officio" nonvoting member.

3. Five of the appointed members shall be registered geologists, except that this requirement shall not apply for the initially appointed geologist members. Four members shall be chosen to represent experience in different geologic specialties. The fifth member shall be a geologist employed by the state or a city or county. The initially appointed geologist members must be eligible for registration [under] **pursuant to** sections 256.450 to 256.483 and must be registered [under] **pursuant to** sections 256.450 to 256.483 within twelve months following appointment to the board to maintain eligibility as a member of the board.

4. Two of the appointed members shall be public members. Each public member shall, at the time of appointment, be a citizen of the United States, a resident of Missouri for at least three years immediately preceding appointment, a registered voter, a person who is not and never was a member of any profession licensed or regulated [under] **pursuant to** this chapter or the spouse of such person and a person who does not have and never has had a material, financial interest in either the providing of professional services regulated by this chapter or any activity or organization directly related to any profession licensed or regulated [under] **pursuant to** this chapter. The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

5. Each geologist member of the board shall be a citizen of the United States and shall have been a resident of Missouri for at least three years immediately preceding appointment.

6. Appointed members of the board shall serve terms of three years except that two of the first appointed members shall be appointed to one-year terms and two of the first appointed members shall be appointed to two-year terms. Members shall hold office until the expiration of the terms for which they were appointed and until their successors have been appointed and duly qualified unless removed for cause by the governor. No person may serve more than two consecutive terms.

7. The board shall not be required to give any appeal bond in any cause arising under application of sections 256.450 to 256.483. The attorney general shall represent the board in all actions and proceedings to enforce the provisions of sections 256.450 to 256.483.

8. [Appointed board members shall be compensated only for actual expenses incurred while performing required functions of the board. The expenses shall be paid from the funds of the board.] **Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for board business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment.**

324.086. REFUSAL TO ISSUE LICENSE, WHEN — NOTIFICATION OF APPLICANT — COMPLAINT PROCEDURE. — [The division, in collaboration with the board, may discipline or sanction any holder of a license or permit issued pursuant to sections 324.050 to 324.089 for any one or any combination of the following:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's professional performance or responsibility;

(2) Finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state, the United States or any territory of the United States, for any offense reasonably related to the qualifications, functions or duties of an occupational therapist or occupational therapy assistant; for any offense for which an essential element is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any credential, license or permit, or to aid or abet any person in a violation of this section;

(4) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of an occupational therapist or occupational therapy assistant or a violation of any professional trust or confidence;

(5) Violation of, or assisting or enabling any person to violate, any provision of sections 324.050 to 324.089 or any lawful rule or regulation promulgated thereunder;

(6) Impersonate, in any manner, or pretend to be any person holding a valid license or permit as an occupational therapist or occupational therapy assistant or allowing any other person to use such person's credentials;

(7) Finally adjudged incapacitated by a court of competent jurisdiction;

(8) Assisting or enabling any person to practice, or offer to practice, occupational therapy services if such person does not hold a valid license or permit issued pursuant to sections 324.050 to 324.089;

(9) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(10) Unethical conduct as defined in the ethical standards for occupational therapists and occupational therapy assistants adopted by the division and filed with the secretary of state;

(11) Failure to give notification of the suspension, probation or revocation of any past or currently held licenses, certificates or registrations required to practice occupational therapy in this or any other jurisdiction or the failure to renew or surrender such license, certificate or registration;

(12) Discipline in another state or by a certifying body; or

(13) Otherwise violate any provision of sections 324.050 to 324.089.] **1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to sections 324.050 to 324.089 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 324.050 to 324.089 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of an occupational therapist or occupational therapy assistant;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated by sections 324.050 to 324.089, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 324.050 to 324.089 or in obtaining permission to take any examination given or required pursuant to sections 324.050 to 324.089;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions and duties of any profession licensed or regulated by sections 324.050 to 324.089;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 324.050 to 324.089 or any lawful rule or regulation adopted pursuant to sections 324.050 to 324.089;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 324.050 to 324.089 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 324.050 to 324.089 who is not registered and currently eligible to practice pursuant to sections 324.050 to 324.089;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Unethical conduct as defined in the ethical standards for occupational therapists and occupational therapy assistants adopted by the division and filed with the secretary of state;

(15) Violation of the drug laws or rules and regulations of this state, any other state or federal government.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or may revoke the license, certificate or permit.

4. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all requirements of sections 324.050 to 324.089 relative to the licensing of the applicant for the first time.

324.177. ADVISORY COMMISSION FOR CLINICAL PERFUSIONISTS ESTABLISHED, DUTIES, MEMBERS, EXPENSES, COMPENSATION, REMOVAL. — 1. There is hereby established an "Advisory Commission for Clinical Perfusionists" which shall guide, advise and make recommendations to the board. The commission shall approve the examination required by section 324.133 and shall assist the board in carrying out the provisions of sections 324.125 to 324.183.

2. The advisory commission shall consist of five perfusionist members and two public members which shall be appointed by the governor with the advice and consent of the senate. The members of the commission shall be appointed for terms of six years; except those first appointed, of which one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years, one shall be appointed for a term of five years and one shall be appointed for a term of six years. The nonpublic commission members shall be residents of the state of Missouri for at least one year, shall be United States citizens and shall meet all the requirements for licensing provided in sections 324.125 to 324.183, shall be licensed pursuant to sections 324.125 to 324.183, except the members of the first commission, who shall be licensed within six months of their appointment and are actively engaged in the practice of perfusion. If a member of the commission shall, during the member's term as a commission member, remove the member's domicile from the state of Missouri, then the commission shall immediately notify the governor and the seat of that commission member shall be declared vacant. All such vacancies shall be filled by appointment as in the same manner as the preceding appointment. The public members shall be at the time of the members' appointment citizens of the United States; residents of the state for a period of at least one year and registered voters; persons who are not and never were members of any profession licensed or regulated pursuant to sections 324.125 to 324.183 or the spouse of such person; persons who do not have and never have had a material, financial interest in either the provision of the professional services regulated by sections 324.125 to 324.183, or an activity or organization directly related to any profession licensed or regulated by sections 324.125 to 324.183.

3. [No member of the commission shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] **Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional**

registration shall establish by rule guidelines for payment. All staff for the commission shall be provided by the division of professional registration.

4. A member of the commission may be removed if, the member:

(1) Does not have, at the time of appointment, the qualifications required for appointment to the commission;

(2) Does not maintain during service on the commission the qualifications required for appointment to the commission;

(3) Violates any provision of sections 324.125 to 324.183;

(4) Cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) Is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year, unless the absence is excused by a majority vote of the commission.

324.212. APPLICATIONS FOR LICENSURE, FEES — RENEWAL NOTICES — DIETITIAN FUNDESTABLISHED. — 1. Applications for licensure as a dietitian shall be in writing, submitted to the committee on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the [licensure] renewal date. Failure to provide the committee with the information required for [licensure] **renewal**, or to pay the [licensure] **renewal** fee after such notice shall effect a noncurrent license. The license shall be [restored] **reinstated** if, within two years of the [licensure] **renewal** date, the applicant submits the required documentation and pays the applicable fees as approved by the committee.

3. A new [certificate] **license** to replace any [certificate] **license** lost, destroyed or mutilated may be issued subject to the rules of the committee upon payment of a fee.

4. The committee shall set by rule the appropriate amount of fees authorized herein. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of sections 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is hereby created.

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the dietitian fund for the preceding fiscal year.

324.217. REFUSAL TO ISSUE OR RENEW LICENSE, WHEN — COMPLAINT FILED AGAINST LICENSEE, WHEN — HEARING PROCEDURES — MAINTENANCE OF COMPLAINTS FILED — RECOMMENDATION FOR PROSECUTION. — 1. The committee may refuse to issue any license or renew any license required by the provisions of sections 324.200 to 324.225 for one or any combination of reasons stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against the holder of any license required by sections 324.200 to 324.225 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of fraud, deception, misrepresentation or bribery in securing a license issued pursuant to the provisions of sections 324.200 to 324.225 or in obtaining permission to take the examination required pursuant to sections 324.200 to 324.225;

(2) Impersonation of any person holding a license or allowing any person to use his or her license or diploma from any school;

(3) [Revocation or suspension] **Disciplinary action against the holder** of a license or other right to practice medical nutrition therapy by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(4) [Obtaining] **Issuance of** a license based upon a material mistake of fact; or

(5) [Failure to display a valid license if so required by sections 324.200 to 324.225 or any rule promulgated pursuant thereto] **The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or the United States, for any offense reasonably related to the qualifications, functions, or duties of the professional regulated pursuant to sections 324.200 to 324.225, for any offense an essential element of which is fraud, dishonesty or act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;**

(6) **Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 324.200 to 324.225;**

(7) **Violation of, or assisting or enabling any person to violate, any provision of sections 324.200 to 324.225, or any lawful rule or regulation adopted pursuant to such sections;**

(8) **A person is finally adjudged insane or incompetent by a court of competent jurisdiction;**

(9) **Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;**

(10) **Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;**

(11) **Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 324.200 to 324.225;**

(12) **Violation of the drug laws or rules and regulations of this state, any other state or the federal government;**

(13) **Violation of any professional trust or confidence.**

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 324.200 to 324.225 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of a complaint pursuant to subsection 2 of this section, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed [three] **five** years, or **may suspend, for a period not to exceed three years,** or revoke the license of the person. **An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the committee after compliance with**

all requirements of sections 324.200 to 324.225 relative to the licensing of an applicant for the first time.

5. The committee shall maintain an information file containing each complaint filed with the committee relating to a holder of a license. [The committee, at least quarterly, shall notify the complainant and holder of a license of the complaint's status until final disposition.]

6. The committee shall recommend for prosecution violations of sections 324.200 to 324.225 to an appropriate prosecuting or circuit attorney.

324.243. BOARD OF THERAPEUTIC MASSAGE, MEMBERS, TERMS, MEETINGS, REMOVAL, COMPENSATION. — 1. There is hereby established in the division of professional registration in the department of economic development the "Board of Therapeutic Massage" which shall guide, advise and make recommendations to the division and fulfill other responsibilities designated by sections 324.240 to 324.275. The board shall approve the examination required by section 324.265 and shall assist the division in carrying out the provisions of sections 324.240 to 324.275.

2. The board shall consist of seven voting members, including one public member, and one nonvoting member, appointed by the governor with the advice and consent of the senate. Each member of the board shall be a citizen of the United States and a resident of this state and, except for the members first appointed, shall be licensed as a massage therapist by this state. The nonvoting member shall be a member of the massage education community in the state and shall serve a four-year term. Beginning with the appointments made after August 28, 1998, three voting members shall be appointed for four years, two voting members shall be appointed for three years and two voting members shall be appointed for two years. Thereafter, all voting members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the board for a total of eight years. The membership of the board shall reflect the differences in work experience and the professional affiliations of therapists with consideration being given to race, gender and ethnic origins.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. The board shall hold an annual meeting at which it shall elect from its membership a chairperson, vice chairperson and secretary. The board may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its voting members.

5. The governor may remove a board member for misconduct, incompetence or neglect of official duties after giving the board member written notice of the charges and allowing the board member an opportunity to be heard.

6. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; but may not have been a member of any profession licensed or regulated pursuant to sections 324.240 to 324.275 or an immediate family member of such a person; and may not have had a material, financial interest in either the providing of massage therapy as defined in sections 324.240 to 324.275 or in an activity or organization directly related to any profession licensed or regulated pursuant to sections 324.240 to 324.275. The duties of the public member shall not include any determination of the technical requirements to be met for licensure, whether a candidate for licensure meets such technical requirements, or of the technical competence or technical judgment of a licensee or a candidate for licensure.

7. The professional members shall not be officers in a professional massage organization, nor may they be the owners or managers of any massage educational entity.

8. [No member of the board shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] **Notwithstanding any**

other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the board shall be provided by the division.

324.522. LICENSING REQUIRED, WHEN — RULEMAKING AUTHORITY. — 1. No practitioner of tattooing, body piercing or branding shall practice and no establishment in which tattoos, body piercing or brandings are applied shall be operated without a license issued by the director of the division of professional registration. The license fee for each practitioner and each establishment shall be established by rule.

2. The director of the division of professional registration shall promulgate rules and regulations relative to the hygienic practice of tattooing, **body piercing and branding**, and sanitary operations of tattoo, **body piercing and branding** establishments. Such rules and regulations shall include:

(1) Standards of hygiene to be met and maintained by establishments and practitioners in order to receive and maintain a license for the practice of tattooing, **body piercing and branding**;

(2) Procedures to be used to grant, revoke or reinstate a license;

(3) Inspection of tattoo, **body piercing and branding** establishments; and

(4) Any other matter necessary to the administration of this section.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.520 to 324.524 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. [All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.] **This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

324.530. INSPECTORS FOR WOOD-DESTROYING INSECTS, LICENSES REQUIRED. — Any person performing inspections for evidence of wood destroying insects at the request of the buyer, seller or lending institution for real estate transactions shall have in effect a valid Missouri certified commercial applicator's license, pesticide technician's license working under the direct supervision of a certified commercial applicator, certified noncommercial applicator's license or a certified public operator's license in subcategory 7b-termite pest control issued pursuant to chapter 281, RSMo.

324.700. DEFINITIONS. — As used in sections 324.700 to 324.745, unless the context provides otherwise, the following terms shall mean:

(1) "Division", the division of motor carrier and railroad safety;

(2) "House", a dwelling or other structure intended for human habitat in excess of fourteen feet in width. A house does not include a manufactured home as defined in section 700.010, RSMo, or a modular unit;

(3) "Housemover", a person actively engaged on a full-time basis in the intrastate movement of houses on public roads and highways of this state;

(4) "Housemoving", engaging actively and directly on a full-time basis in the intrastate movement of houses on public roads and highways of this state;

(5) "Person", an individual, corporation, partnership, association or any other business entity.

324.703. LICENSE REQUIRED FOR PERSONS ENGAGED IN THE BUSINESS OF HOUSEMOVING. — All persons who engage in the business of housemoving on the roads and highways of this state shall be licensed by the division of motor carrier and railroad safety.

324.706. LICENSE ISSUED, WHEN. — The division shall issue licenses to applicants meeting the following conditions:

(1) The applicant must be at least eighteen years of age and have at least twenty-four months experience in moving houses;

(2) The applicant must furnish proof that all of the vehicles to be used in the movement of houses have met the requirements of sections 307.350 to 307.400, RSMo, or its equivalent pertaining to the inspection of motor vehicles;

(3) The applicant must exhibit his federal employer's identification number; and

(4) The applicant must pay an annual license fee of one hundred dollars. All moneys received for housemover licenses shall be paid to and collected by the division of motor carrier and railroad safety and transmitted to the director of revenue and deposited in the state treasury to the credit of the state highways and transportation fund as established in section 226.200, RSMo.

324.709. EFFECTIVE DATE OF LICENSE — ANNUAL RENEWAL. — A license issued pursuant to sections 324.700 to 327.742 shall be effective for a period of one year from the date of issuance and shall be renewable on an annual basis.

324.712. CERTIFICATE OF INSURANCE REQUIRED — NOTIFICATION TO DIVISION, WHEN. — 1. No license shall be issued or renewed unless the applicant files with the division a certificate or certificates of insurance from an insurance company or companies authorized to do business in this state. The applicant must demonstrate that he or she has:

(1) Motor vehicle insurance for bodily injury to or death of one or more persons in any one accident and for injury or destruction of property of others in any one accident with minimum coverage of five hundred thousand dollars;

(2) Comprehensive general liability insurance with a minimum coverage of two million dollars, including coverage of operations on state streets and highways that are not covered by motor vehicle insurance; and

(3) Workers' compensation insurance that complies with chapter 287, RSMo, for all employees.

2. The certificate or certificates shall provide for continuous coverage during the effective period of the license issued pursuant to this section. At the time the certificate is filed, the applicant shall also file with the division a current list of all motor vehicles covered by the certificate. The applicant shall file amendments to the list within fifteen days of any changes.

3. An insurance company issuing any insurance policy required by this section shall notify the division of any of the following events at least thirty days before its occurrence:

(1) Cancellation of the policy;

(2) Nonrenewal of the policy by the company; or

(3) Any change in the policy.

4. In addition to all coverages required by this section, the applicant shall file with the division a copy of either:

(1) A bond or other acceptable surety providing coverage in the amount of fifty thousand dollars for the benefit of a person contracting with the housemover to move that person's house for all claims for property damage arising from the movement of a house; or

(2) A policy of cargo insurance in the amount of one hundred thousand dollars.

324.715. SPECIAL PERMIT REQUIRED, ISSUED WHEN — LICENSE NOT REQUIRED, WHEN.

— 1. Persons licensed as housemovers shall also be required to secure a special permit, as provided for pursuant to section 304.200, RSMo, from the chief engineer of the department of highways and transportation for every move undertaken on the state highway system. The permit shall be issued by the chief engineer if the chief engineer determines that the applicant:

(1) Is properly licensed pursuant to sections 324.700 to 324.745;

(2) Has furnished the surety bond or policy of cargo insurance required by subsection 4 of section 324.712; and

(3) Is complying with such other regulations as required by the division of motor carrier and railroad safety.

2. A license shall not be required for individuals moving their own houses from or to property owned individually by those persons; however, a special permit will be required for all moves.

3. Licensed housemovers shall furnish one rear escort vehicle on interstate and other divided highways. Licensed housemovers shall provide two escorts on all multi-lane and two-lane highways, one in front and one rear.

324.718. APPLICATION PROCEDURE FOR SPECIAL PERMIT — TRAVEL PLAN REQUIRED, ALTERNATE PLANS PERMITTED. — 1. Application for a special permit to move a house must be made to the chief engineer of the department of transportation at least two days prior to the date of the move. For good cause shown, this time may be waived by the chief engineer.

2. A travel plan shall accompany the application for the special permit. The travel plan will show the proposed route, the time estimated for each segment of the move, a plan to handle traffic so that no one delay to other highway users shall exceed twenty minutes. The chief engineer shall review the travel plan and if the route cannot accommodate the move due to roadway weight limits, bridge size or weight limits, or will cause undue interruption of traffic flow, the special permit shall not be issued.

3. The applicant may submit alternate plans if desired until an acceptable route is determined. If the width of the house to be relocated is more than thirty- six feet, or if no acceptable travel plan has been filed, and the denial of the permit would cause a hardship, the application and travel plan may be submitted to the chief engineer on appeal. After reviewing the route and travel plan, the chief engineer may in his or her discretion issue the permit after considering the practical physical limitations of the route, the nature and purpose of the move, the size and weight of the house, the distance the house is to be moved, and the safety and convenience of the traveling public. A surety bond in the amount to cover the cost of any damage to the pavement, structures, bridges, roadway or other damages that may occur may be required if deemed necessary by the chief engineer.

324.721. OBSTRUCTIONS TO BE REMOVED AND REPLACED AT EXPENSE OF HOUSEMOVER. — All obstructions, including traffic signals, signs, and utility lines will be removed immediately prior to and replaced immediately after the move at the expense of

the housemover, provided that arrangements for and approval from the owner is obtained.

324.724. ALTERNATE ROUTE USED, WHEN. — Irrespective of the route shown on the special permit, an alternate route will be followed:

- (1) If directed by a peace officer;
- (2) If directed by a uniformed officer assigned to a weighing station to follow a route to a weighing device; or
- (3) If the specified route is officially detoured. Should a detour be encountered, the driver shall check with the department of transportation prior to proceeding.

324.727. NO HOUSE IN HIGHWAY RIGHT-OF-WAY WITHOUT PERMISSION. — The house to be transported will not be loaded, unloaded, nor parked, day or night, on a highway right-of-way without specific permission from the director.

324.730. VISIBILITY RESTRICTIONS FOR MOVE. — No move will be made when atmospheric conditions render visibility lower than safe for travel. Moves will not be made when highways are covered with snow or ice, or at any time travel conditions are considered unsafe by the director or highway patrol or other law enforcement officers having jurisdiction.

324.733. VOIDING OF PERMIT, WHEN. — The permit may be voided if any conditions of the permit are violated. Upon any violation, the permit must be surrendered and a new permit obtained before proceeding. Misrepresentation of information on an application to obtain a license, fraudulently obtaining a permit, alteration of a permit, or unauthorized use of a permit will render the permit void.

324.736. LOCAL ORDINANCES COMPLIED WITH, MOVES ON MUNICIPAL STREETS. — All moves on streets on the municipal system of streets shall comply with local ordinances. The officer in charge of the maintenance of streets of any municipality may issue permits for the use of the streets by housemovers within the limits of such municipalities.

324.739. SPEED OF MOVES, LIMITATIONS. — The speed of moves will be that which is reasonable and prudent for the load, considering weight and bulk, under conditions existing at the time.

324.742. VIOLATIONS, PENALTY. — Any person violating sections 324.700 to 324.745 or the regulations of the division or department of transportation shall be guilty of a class A misdemeanor.

324.745. SEVERABILITY CLAUSE — APPLICABILITY EXCEPTIONS. — 1. If any provisions of sections 324.700 to 324.745, or if the application of such provisions to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision of sections 324.700 to 324.745 other than those as to which it is held valid, shall not be affected thereby.

2. Nothing in sections 324.700 to 324.745 shall be construed to limit, modify or supercede the standards governing the intrastate or interstate movement of property pursuant to 49 U.S.C. 14501 or 49 U.S.C. 14504.

3. The provisions of sections 324.700 to 324.745 shall not apply to housemovers engaged in the interstate movement of houses. Those engaged in the interstate movement of houses, however, shall comply with all applicable provisions of federal and state law with respect to the movement of such property.

326.250. CITATION OF LAW. — The provisions of sections 326.250 to 326.331 shall be known and may be cited as the "Missouri Accountancy Act".

326.253. POLICY STATEMENT, PURPOSE CLAUSE. — It is the policy of this state and the purpose of this chapter to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial and governmental enterprises. The protection of the public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having such special competence or to offer such assurance; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of certified public accountants be established; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.

326.256. DEFINITIONS. — 1. As used in this chapter, the following terms mean:

- (1) "AICPA", the American Institute of Certified Public Accountants;
- (2) "Attest", providing the following financial statement services:
 - (a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);
 - (b) Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);
- (3) "Board", the Missouri state board of accountancy established pursuant to section 326.259 or its predecessor pursuant to prior law;
- (4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28, 2001;
- (5) "Certified public accountant" or "CPA", the holder of a certificate or license as defined in this section;
- (6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit pursuant to section 326.289;
- (7) "Client", a person or entity that agrees with a licensee or licensee's employer to receive any professional service;
- (8) "Compilation", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the statements;
- (9) "License", a license issued pursuant to section 326.280, or a provisional license issued pursuant to section 326.283; or, in each case, an individual license or permit issued pursuant to corresponding provisions of prior law;
- (10) "Licensee", the holder of a license as defined in this section;
- (11) "Manager", a manager of a limited liability company;
- (12) "Member", a member of a limited liability company;
- (13) "NASBA", the National Association of State Boards of Accountancy;
- (14) "Peer review", a study, appraisal or review of one or more aspects of the professional work of a licensee or certified public accountant firm that performs attest, review or compilation services, by licensees who are not affiliated either personally or through their certified public accountant firm being reviewed pursuant to the Standards for Performing and Reporting on Peer Reviews promulgated by the AICPA or such other

standard adopted by regulation of the board which meets or exceeds the AICPA standards.

(15) "Permit", a permit to practice as a certified public accountant firm issued pursuant to section 326.289 or corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;

(16) "Professional", arising out of or related to the specialized knowledge or skills associated with certified public accountants;

(17) "Public accountancy":

(a) Performing or offering to perform for an enterprise, client or potential client one or more services involving the use of accounting or auditing skills, or one or more management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters by a person, firm, limited liability company or professional corporation using the title "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other public representations;

(b) Signing or affixing a name, with any wording indicating the person or entity has expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

(c) Offering to the public or to prospective clients to perform, or actually performing on behalf of clients, professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records;

(18) "Report", when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as to the reliability of any financial statements, and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence, or both;

(19) "Review", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;

(20) "State", any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

(21) "Substantial equivalency", a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements contained in this chapter or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter;

(22) "Transmittal", any transmission of information in any form, including but not limited to any and all documents, records, minutes, computer files, disks or information.

2. The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by the AICPA or other recognized national accountancy organization as prescribed by board rule.

326.259. MISSOURI STATE BOARD OF ACCOUNTANCY ESTABLISHED, MEMBERS, TERMS, REMOVAL. — 1. The "Missouri State Board of Accountancy" is hereby established and shall consist of seven members, one of whom shall be a voting public member, and shall have the functions, powers and duties prescribed in this chapter.

2. Each member of the board, except the public member, shall be a licensee pursuant to the laws of this state, and shall at the time of his or her appointment be a citizen of the United States, a resident of this state for at least one year and have practiced continuously as a licensee for a period of at least five years immediately preceding his or her appointment. At the time of his or her appointment, the public member shall be a citizen of the United States, a resident of this state for a period of one year, a registered voter, a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the immediate family member of such a person, and a person who does not have and never has had a material financial interest in either providing professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter.

3. Members of the Missouri state board of accountancy appointed pursuant to section 326.160 prior to August 28, 2001, shall serve the remainder of their terms. Thereafter, the members of the board, including public members, shall be chosen by the governor with the advice and consent of the senate from lists submitted by the director of the division of professional registration. The chair of the largest membership state organization of certified public accountants which is dedicated to maintaining the high professional and ethical standards of accountants as well as protection of the public may submit a list of five licensees to the director of the division of professional registration for consideration as a board member, other than the public member. To be considered by the director of the division of professional registration, the list shall be submitted at least ninety days prior to the expiration of the term of the board member or as soon as feasible after a vacancy on the board occurs. The duties of the public member shall not include the determination of the technical requirements for licensure, whether any person meets the technical requirements, or the technical competence or technical judgment of a certified public accountant or applicant for licensure.

4. The term of office of each board member appointed shall be five years. Vacancies shall be filled by the governor for the remainder of the unexpired term. No person shall serve more than two consecutive terms or eleven years, whichever is less; except that a member may hold office until his or her successor is appointed and qualified. Any member who has served two complete consecutive terms shall be ineligible to be reappointed until one year has lapsed. No member whose term has been terminated for any reason, other than the term's expiration, shall be eligible for reappointment until the lapse of one year. An appointment to fill an unexpired term shall not be considered a complete term.

5. The governor may remove any member of the board for misconduct, incompetency or neglect of official duties after giving the member written notice of the charges and an opportunity to be heard.

326.262. RULEMAKING AUTHORITY — OFFICE MAINTAINED IN JEFFERSON CITY. — 1. The Missouri state board of accountancy shall have power by rule to adopt and use a seal;

make and amend all rules deemed necessary for the proper administration of this chapter; conduct examinations; administer oaths and hear testimony regarding complaints, investigations and disciplinary actions or in pursuing settlement as provided by section 621.110, RSMo, or preparatory to the filing of a complaint pursuant to section 621.045, RSMo; require by summons or subpoena the attendance and testimony of witnesses, and the production of books, papers and documents with respect to testimony regarding complaints, investigations and disciplinary actions or in pursuing settlement; and do and perform all other acts and things committed to its charge and administration, or incidental thereto.

2. The board shall maintain its office in Jefferson City, Missouri.

326.265. OFFICERS ELECTED BY BOARD, EMPLOYMENT OF LEGAL COUNSEL AND PERSONNEL — CONTINUING EDUCATION COMMITTEE, DUTIES. — 1. The board shall elect annually one of its members as president, one as vice president, one as secretary and one as treasurer, and shall make an annual report to the governor and the general assembly. The board shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to the board and all affidavits and other verified documents, and shall keep accurate records and minutes of its proceedings. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal shall constitute and have the full force and effect of the original.

2. The board may employ legal counsel and board personnel as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, and incur such travel and other expense as in its judgment shall be necessary for the effective administration of this chapter.

3. The board may also appoint a continuing education committee of not less than five members consisting of certified public accountants of this state. Such committee shall:

(1) Evaluate continuing education programs to determine if they meet continuing education regulations adopted by the board;

(2) Consider applications for exceptions to continuing education regulations adopted pursuant to the provisions of section 326.271; and

(3) Consider other matters regarding continuing education as may be assigned by the board.

326.268. MEETINGS — EXAMINATION OF APPLICANTS, CONTENT, FEES — COMPENSATION OF BOARD MEMBERS. — 1. The board may prescribe by rule the dates and places for holding regular meetings and regulate the call, notice and holding of special meetings. Four members of the board shall constitute a quorum at any regular meeting or special meeting.

2. The board shall determine by rule the dates and times of examination of applicants. Examination of applicants shall be held at least twice annually. The board may determine by rule the method for publicizing the times and places of the examination. The board may require any or all applicants to appear in person before the board to answer questions regarding their qualifications and may, in the board's discretion, require evidence in support of the statements of the applicant.

3. The required examination shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the board may specify by rule, including but not limited to business law and taxation. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and passing grades; provided, however, that the board shall, to the extent possible, ensure the examination, grading of the examination and the passing grades are uniform with those applicable in other states. The board may make use of all or any part

of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination as the board deems appropriate.

4. The board may determine by rule the examination fee.

5. Each member of the board shall receive as compensation an amount set by the board not to exceed seventy dollars for each day devoted to the affairs of the board, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. All claims for compensation and expenses shall be presented and allowed in open meetings of the board. No compensation or expenses of members of the board, its officers or employees shall be charged against the general funds of the state, but shall be paid out of the state board of accountancy fund.

326.271. RULEMAKING AUTHORITY, CONDUCT OF MATTERS AND CONTINUING EDUCATION. — 1. The board shall promulgate rules of procedure for governing the conduct of matters before the board.

2. The board shall promulgate rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy.

3. In promulgating rules and regulations regarding the requirements of continuing education, the board:

(1) May use and rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) May prescribe for content, duration and organization of courses;

(3) Shall consider applicant accessibility to continuing education as required by the board, and any impediments to the interstate practice of public accountancy which may result from differences in requirements in states;

(4) May in its discretion relax or suspend continuing education requirements for instances of individual hardship;

(5) Shall not require the completion of more than one hundred twenty hours of continuing education or its equivalent in any three-year period, not more than one-third of which shall be required in any one year. The continuing education requirements must be capable of being fulfilled in programs or courses reasonably available to licensees within the state.

4. The board may require by rule licensees to submit any continuing education reporting as the board deems necessary.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This chapter and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

326.274. INVESTIGATION OF COMPLAINTS BY BOARD. — Upon receipt of a complaint or other information suggesting violations of this chapter or the rules of the board, the board may conduct investigations to determine if probable cause exists to institute proceedings pursuant to sections 326.295 to 326.316 against any person or firm for the violation, but an investigation pursuant to this section shall not be a prerequisite to initiate proceedings where a determination of probable cause can be made without investigation.

326.277. ELIGIBILITY FOR EXAMINATION, EDUCATION REQUIREMENTS. — For an applicant to be eligible to apply for the examination, the applicant shall fulfill the education requirements of subdivision (4) of subsection 1 of section 326.280.

326.280. LICENSE ISSUED, WHEN — REEXAMINATION AND FEES — TEMPORARY LICENSE ISSUED, WHEN. — 1. A license shall be granted by the board to any person who meets the requirements of this chapter and who:

- (1) Is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;
- (2) Has attained the age of twenty-one years;
- (3) Is of good moral character;
- (4) Either:
 - (a) Applied for the initial examination prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting or the substantial equivalent of a concentration in accounting as determined by the board; or
 - (b) Applied for the initial examination on or after June 30, 1999, and has at least one hundred fifty semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board, with the total educational program including an accounting concentration or equivalent as determined by board rule to be appropriate;
- (5) Has passed an examination in accounting, auditing and such other related subjects as the board shall determine is appropriate; and
- (6) Has had one year of experience. Experience shall be verified by a licensee and shall include any type of service or advice involving the use of accounting, attest, review, compilation, management advisory, financial advisory, tax or consulting skills including governmental accounting, budgeting or auditing. The board shall promulgate rules and regulations concerning the verifying licensee's review of the applicant's experience.

2. The board shall prescribe by rule the terms and conditions for reexaminations and fees to be paid for reexaminations.

3. A person who, on August 28, 2001, holds an individual permit issued pursuant to the laws of this state shall not be required to obtain additional licenses pursuant to sections 326.280 to 326.286, and the licenses issued shall be considered licenses issued pursuant to sections 326.280 to 326.286. However, such persons shall be subject to the provisions of section 326.286 for renewal of licenses.

4. Upon application, the board may issue a temporary license to an applicant pursuant to this subsection for a person who has made a prima facie showing that the applicant meets all of the requirements for a license and possesses the experience required. The temporary license shall be effective only until the board has had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and notify the applicant that the applicant's application for a license has been granted or rejected. In no event shall a temporary license be in effect for more than twelve months after the date of issuance nor shall a temporary license be reissued to the same applicant. No fee shall be charged for a temporary license. The holder of a temporary license which has not expired, been suspended or revoked shall be deemed to be the holder of a license issued pursuant to this section until the temporary license expires, is terminated, suspended or revoked.

5. An applicant for an examination who meets the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet those requirements within sixty days after the examination shall be eligible for examination if the applicant also meets the requirements of subdivisions (1), (2) and (3) of subsection 1 of this section. For an applicant admitted to examination on the reasonable expectation

that the applicant will meet the educational requirements within sixty days, no license shall be issued nor credit for the examination or any part thereof given unless the educational requirement is in fact met within the sixty-day period.

326.283. RECIPROCITY FOR OUT-OF-STATE ACCOUNTANTS. — 1. (1) An individual whose principal place of business is not in this state and has a valid designation to practice public accountancy from any state which the board has determined by rule to be in substantial equivalence with the licensure requirements of sections 326.250 to 326.331, or if the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state whether in person, by electronic or technological means, or any other manner. The board by rule may require individuals to obtain a license.

(2) Any individual of another state exercising the privilege afforded pursuant to this section consents as a condition of the grant of this privilege to:

(a) The personal and subject matter jurisdiction and disciplinary authority of the board;

(b) Comply with this chapter and the board's rules; and

(c) The appointment of the state board which issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.

2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary, the board may investigate any complaint made by the board of accountancy of another state.

326.286. ISSUANCE AND RENEWAL OF LICENSES, WHEN, TERM — LICENSE HOLDER BY FOREIGN AUTHORITY, STATE LICENSE ISSUED, WHEN. — 1. The board may grant or renew licenses to persons who make application and demonstrate that:

(1) Their qualifications, including the qualifications prescribed by section 326.280, are in accordance with this section; or

(2) They are eligible under the substantial equivalency standard pursuant to subsection 1 of section 326.283.

2. Licenses shall be initially issued and renewed for periods of not more than three years and shall expire on the renewal date following issuance or renewal. Applications for licenses shall be made in such form, and in the case of applications for renewal, between such dates, as the board by rule shall specify. Application and renewal fees shall be determined by the board by rule.

3. With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in subsection 1 of section 326.283, the board may issue a license to an applicant upon a showing that:

(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(2) The applicant had four years of experience outside of this state of the type described in subdivision (6) of subsection 1 of section 326.280 or meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's licenses was based and within the ten years immediately preceding the application; and

(3) If the applicant's certificate, license or permit was issued more than four years prior to the application for issuance of a license pursuant to this section, the applicant has fulfilled the requirements of continuing professional education that would have been applicable pursuant to subsection 6 of this section.

4. As an alternative to the requirements of subsection 3 of this section, a certified public accountant licensed by another state who establishes a principal place of business in this state shall request the issuance of a license from the board prior to establishing the principal place of business. The board may issue a license to the person who obtains verification from the NASBA National Qualification Appraisal Service that the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331.

5. An application pursuant to this section may be made through the NASBA Qualification Appraisal Service.

6. For renewal of a license pursuant to this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning shall comply with rules adopted by the board. The board may create by rule an exception to such requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted an exception by the board shall place the word "inactive" adjacent to their certified public accountant title on any business card, letterhead or any other document or device, except their certified public accountant certificate, on which their certified public accountant title appears.

7. Applicants for initial issuance or renewal of licenses pursuant to this section shall list all states in which they have applied for or hold certificates, licenses or permits and list any past denial, revocation or suspension or any discipline of a certificate, license or permit. Each holder of or applicant for a license shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation or suspension or any discipline of a certificate, license or permit by another state.

8. The board may issue a license to a holder of a substantially equivalent foreign designation, provided that:

(1) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid license issued by this state to obtain such foreign authority's comparable designation; and

(2) The foreign designation:

(a) Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(b) Entitles the holder to issue reports upon financial statements; and

(c) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and

(3) The applicant:

(a) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;

(b) Completed an experience requirement substantially equivalent to the requirement set out in subdivision (6) of subsection 1 of section 326.280 in the jurisdiction which granted the foreign designation or has completed four years of professional experience in this state, or meets equivalent requirements prescribed by the board by rule within the ten years immediately preceding the application; and

(c) Passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board.

9. An applicant pursuant to subsection 8 of this section shall list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. Each holder of a license issued pursuant to this subsection shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation, suspension or any discipline of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

10. The board has the sole authority to interpret the application of the provisions of subsections 8 and 9 of this section.

11. The board shall require by rule as a condition for renewal of a license by any licensee who performs review or compilation services for the public other than through a certified public accountant firm that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.

326.289. ISSUANCE AND RENEWAL OF PERMITS, PROCEDURE. — 1. The board may grant or renew permits to practice as a certified public accounting firm to entities that make application and demonstrate their qualifications in accordance with this section or to certified public accounting firms originally licensed in another state that establish an office in this state. A firm shall hold a permit issued pursuant to this section to provide attest, review or compilation services or to use the title certified public accountant or certified public accounting firm.

2. Permits shall be initially issued and renewed for periods of not more than three years or for a specific period as prescribed by board rule following issuance or renewal.

3. The board shall determine by rule the form for application and renewal of permits and shall annually determine the fees for permits and their renewals.

4. An applicant for initial issuance or renewal of a permit to practice pursuant to this section shall be required to show that:

(1) Notwithstanding any other provision of law to the contrary, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state and who perform professional services in this state are licensees pursuant to section 326.280 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by the board;

(2) Any certified public accounting firm may include owners who are not licensees, provided that:

(a) The firm designates a licensee of this state who is responsible for the proper registration of the firm and identifies that individual to the board;

(b) All nonlicensee owners are active individual participants in the certified public accounting firm or affiliated entities;

(c) The firm complies with other requirements as the board may impose by rule;

(3) Any licensee who is responsible for supervising attest, review or compilation services, or signs or authorizes someone to sign the licensee's report on the financial statements on behalf of the firm, shall meet competency requirements as determined by the board by rule which shall include one year of experience in addition to the experience required pursuant to subdivision (6) of subsection 1 of section 326.280 and shall be verified

by a licensee. The additional experience required by this subsection shall include experience in attest work supervised by a licensee.

5. An applicant for initial issuance or renewal of a permit to practice shall register each office of the firm within this state with the board and show that all attest, review and compilation services rendered in this state are under the charge of a licensee.

6. No licensee or firm holding a permit pursuant to this chapter shall use a professional or firm name or designation that is misleading as to:

- (1) The legal form of the firm;
- (2) The persons who are partners, officers, members, managers or shareholders of the firm; or
- (3) Any other matter.

The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. A firm may use a fictitious name if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm shall not include the name of an individual who is a present or a past partner, member or shareholder of the firm or its predecessor. The name of the firm shall not include the name of an individual who is not a licensee.

7. Applicants for initial issuance or renewal of permits shall list in their application all states in which they have applied for or hold permits as certified public accounting firms and list any past denial, revocation, suspension or any discipline of a permit by any other state. Each holder of or applicant for a permit pursuant to this section shall notify the board in writing within thirty days after its occurrence of any change in the identities of partners, principals, officers, shareholders, members or managers whose principal place of business is in this state; any change in the number or location of offices within this state; any change in the identity of the persons in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of a permit by any other state.

8. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel after receiving or renewing a permit shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in the suspension or revocation of the firm permit.

9. The board shall require by rule, as a condition to the renewal of permits, that firms undergo, no more frequently than once every three years, peer reviews conducted in a manner as the board shall specify. The review shall include a verification that individuals in the firm who are responsible for supervising attest, review and compilation services or sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:

- (1) Shall include reasonable provision for compliance by a firm showing that it has within the preceding three years undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subsection;
 - (2) May require, with respect to peer reviews, that peer reviews be subject to oversight by an oversight body established or sanctioned by board rule, which shall periodically report to the board on the effectiveness of the review program under its charge and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and
 - (3) Shall require, with respect to peer reviews, that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that the board or any third party other than the oversight body shall not have access to
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documents furnished or generated in the course of the peer review of the firm except as provided in subdivision (2) of this subsection.

10. Prior to January 1, 2008, licensees who perform fewer than three attest services during each calendar year shall be exempt from the requirements of subsection 9 of this section.

11. The board may, by rule, charge a fee for oversight of peer reviews, provided that the fee charged shall be substantially equivalent to the cost of oversight.

12. In connection with proceedings before the board or upon receipt of a complaint involving the licensee performing peer reviews, the board shall not have access to any documents furnished or generated in the course of the performance of the peer reviews except for peer review reports, letters of comment and summary review memoranda. The documents shall be furnished to the board only in a redacted manner that does not specifically identify any firm or licensee being peer reviewed or any of their clients.

13. The peer review processes shall be operated and the documents generated thereby be maintained in a manner designed to preserve their confidentiality. No third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section or the organization performing peer review shall have access to documents furnished or generated in the course of the review. All documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered closed meetings pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and work papers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members; provided, however, that information, documents or records that are publicly available shall not be subject to discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

326.292. ISSUANCE OF REPORTS ON FINANCIAL STATEMENTS, LICENSE REQUIRED — USE OF CPA OR CA TITLE, WHEN — VIOLATIONS, PENALTY. — 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. Such restriction shall not prohibit any act of a public official or public employee in the performance of the person's duties as such; nor prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services and the preparation of nonattest financial statements. Nonlicensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

2. Only certified public accountants shall use or assume the title certified public accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant. Nothing in this section shall prohibit:

(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;

(2) A person who holds a certificate, then in force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer of a corporation, partnership, association or business trust, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association or business trust provided the capacity is so designated, and provided in the signature line the title CPA or certified public accountant is not designated.

3. No firm shall provide attest services or assume or use the title certified public accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

(1) The firm holds a valid permit issued pursuant to section 326.289; and

(2) Ownership of the firm is in accord with section 326.289 and rules promulgated by the board.

4. Only persons holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.

5. (1) Nonlicensees shall not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by certified public accountants in reports on financial statements. Nonlicensees may use the following safe harbor language:

(a) For compilations: "I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of a financial statement information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";

(b) For reviews: "I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.".

(2) Only persons or firms holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use any title or designation that includes the words accountant or accounting in connection with any other language, including the language of a report, that implies that the person or firm holds a license or permit or has special competence as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer, partner, principal, member, manager or employee of any firm or organization from affixing such person's own signature to any statement in reference to the financial affairs of the firm or organization with any wording designating the position, title or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or "accounting" for nonattest purposes.

6. Licensees performing attest, review or compilation services shall provide those services in accordance with professional standards as determined by the board by rule.

7. No licensee or holder of a provisional license or firm holding a permit pursuant to sections 326.280 to 326.289 shall use a professional or firm name or designation that is

misleading about the legal form of the firm, or about the persons who are partners, principals, officers, members, managers or shareholders of the firm, or about any other matter.

8. None of the foregoing provisions of this section shall apply to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in the country, whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

9. No licensee whose license is issued pursuant to section 326.280 or issued pursuant to prior law shall perform attest services through any certified public accounting firm that does not hold a valid permit issued pursuant to section 326.289.

10. No individual licensee shall issue a report in standard form upon a compilation or review of financial information through any form of business that does not hold a valid permit issued pursuant to section 326.289 unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

- (1) Signs the compilation or review report identifying the individual as a licensee;
- (2) Meets the competency requirement provided in applicable standards; and
- (3) Undergoes, no less frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.

11. Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

12. Nothing herein shall prohibit any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his or her duties in that capacity.

13. Nothing herein shall prohibit any director or officer of a corporation, partner or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to the corporation, partnership, business enterprise, joint venture or committee, provided the capacity is designated on the statement or report.

14. (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:

- (a) An audit or review of a financial statement; or
- (b) A compilation of a financial statement when the licensee expects, or reasonably may expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
- (c) An examination of prospective financial information.

Such prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in writing the acceptance or payment to the client.

15. (1) A licensee shall not:

(a) Perform for a contingent fee any professional services for, or receive a fee from, a client for whom the licensee or the licensee's firm performs:

a. An audit or review of a financial statement; or

b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

c. An examination of prospective financial information; or

(b) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

(2) The prohibition in subdivision (1) of this subsection applies during the period in which the licensee is engaged to perform any of those services and the period covered by any historical financial statements involved in any services.

(3) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

16. Any person who violates any provision of subsections 1 to 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.

326.295. CONFIDENTIAL INFORMATION, PEER REVIEW — IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. To assure a free flow of information for peer review pursuant to section 326.286 or 326.289, or proceedings before the board pursuant to section 326.310, all complaint files, investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee or firm, acting pursuant to the authority of section 326.286, 326.289 or 326.310, or its employees or agents, which relate to the hearings or review shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person, other than the licensee and the board or peer review committee or firm or their employees and agents involved in such proceedings or be admissible in evidence in any judicial or administrative proceeding, other than the proceeding for which such material was prepared or assembled. A final written decision and finding of fact of the board, pursuant to section 326.310, shall be a public record.

2. No person shall be civilly liable as a result of his or her acts, omissions or decisions in good faith as a member of the board, a peer review committee or firm, or as an employee or agent thereof, in connection with such person's duties.

3. No person shall be civilly liable as a result of filing a report or complaint with the board or a peer review committee, or for the disclosure to the board or a peer review committee or its agents or employees, whether pursuant to a subpoena, of records, documents, testimony or other forms of information which constitute privileged matter in connection with proceedings of a peer review committee, or other board proceedings pursuant to section 326.310. Immunity from civil liability shall not apply if the act is done with malice.

326.298. ACTS WHICH MAY BE ENJOINED BY COURT. — 1. Upon application by the board and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a license or permit is required upon a showing that acts or practices were performed or offered to be performed without a license or permit; or

(2) Engaging in any practice or business authorized by a certificate, license or permit issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client of the licensee.

2. Any action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

326.304. ATTORNEY GENERAL OR OTHER LEGAL COUNSEL TO REPRESENT BOARD IN CERTAIN PROCEEDINGS. — At all proceedings for the enforcement of these or any other provisions of this chapter, the board shall, in its discretion as it deems necessary, select the attorney general or one of his or her designated assistants, or other legal counsel to appear and represent the board at each stage of the proceeding or trial until its conclusion.

326.307. USE OF CERTAIN TITLES, PRIMA FACIE EVIDENCE THAT PERSONS HOLD THEMSELVES OUT AS ACCOUNTANTS. — The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, printed or through electronic media, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought pursuant to section 326.298 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself or herself out to be a certified public accountant or a public accountant holding a license pursuant to section 326.280. In any such action evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

326.310. REFUSAL TO ISSUE PERMIT, WHEN — COMPLAINT FILED WITH ADMINISTRATIVE HEARING COMMISSION, WHEN, PROCEDURE. — 1. The board may refuse to issue any license or permit required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may file a complaint with the administrative hearing commission as provided by chapter 621, RSMo, or may initiate settlement procedures as provided by section 621.045, RSMo, against any certified public accountant or permit holder required by this chapter or any person who fails to renew or surrenders the person's certificate, license or permit for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that the use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter or any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate or permit or allowing any person to use his or her certificate or permit or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether voluntarily agreed to by the certified public accountant or applicant, including but not limited to the denial of licensure, surrender of a license, allowing a license to expire or lapse, or discontinuing or limiting the practice of accounting while subject to an investigation or while actually under investigation by any licensing authority, branch of the armed forces of the United States of America, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice accountancy pursuant to this chapter who is not eligible to practice pursuant to this chapter;

(11) Issuance of a certificate or permit based upon a material mistake of fact;

(12) Failure to display a valid certificate or permit required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of professional standards or rules of professional conduct applicable to the accountancy profession as promulgated by the board;

(16) Failure to comply with any final order of a court of competent jurisdiction enforcing a subpoena or subpoena duces tecum from the board;

(17) Failure to comply with any final order of the board;

(18) Failure to maintain documentation evidencing compliance with the board's continuing professional education requirements;

(19) Failure, on the part of a holder of a certificate, license or permit pursuant to section 326.280 or 326.289, to maintain compliance with the requirements for issuance or renewal of such certificate, license, permit or provisional license or to report changes to the board pursuant to sections 326.280 to 326.289;

(20) Making any false or misleading statement or verification in support of an application for a certificate, license or permit filed by another.

3. Proceedings pursuant to this section shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, assess an administrative penalty not to exceed two thousand dollars per violation, censure or place on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years or revoke the certificate, license or permit. In any order of revocation, the board may provide that the person shall not apply for a new license for a maximum of three years and one day following the date of the order of revocation. All stay orders shall toll this time period. In lieu of or in addition to any remedy specifically provided in subsection 1 of this section, the board may require of a licensee:

(1) A peer review conducted as the board may specify; or

(2) Satisfactory completion of continuing professional education programs as the board may specify; or

(3) A peer review conducted as the board may specify and satisfactory completion of continuing professional education programs as the board may specify.

326.313. REVOCATION OF PERMIT, WHEN. — After notice and hearings as provided in chapter 621, RSMo, the board may revoke the permit of a CPA firm if it does not have all the qualifications prescribed by section 326.289; or may revoke, suspend or censure the permit holder for any of the causes enumerated in section 326.310.

326.316. ISSUANCE OF NEW LICENSE AFTER REVOCATION, WHEN. — Upon application in writing and after hearing pursuant to notice, the board may issue a new license to a licensee whose license has been revoked, or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.

326.319. DIVISION TO COLLECT MONEYS — FUND CREATED — COSTS PAID BY RESPONDENT IN PROCEEDINGS, WHEN — FEES SET BY BOARD. — 1. All moneys payable pursuant to the provisions of this chapter shall be collected by the division of professional registration who shall transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Accountancy Fund" which is hereby created.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule certificate or permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

3. In any proceeding in which a remedy provided by subsection 1 or 2 of section 326.310 is imposed, the board may also require the respondent licensee to pay the costs of

the proceeding if the board is a prevailing party or in settlement. The moneys shall be placed in the state treasury to the credit of the "Missouri State Board of Accountancy Investigation Fund", which is hereby created, to be used solely for investigations as provided in this chapter. The moneys shall not be considered in calculating amounts to be transferred to general revenue as provided in subsection 2 of this section. The fund shall be used solely for board investigations.

4. The board shall set the amount of the fees which this chapter authorizes and requires by rule pursuant to chapter 536, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

326.322. CLIENT CONFIDENTIALITY RULES. — 1. Except by permission of the client for whom a licensee performs services or the heirs, successors or personal representatives of such client, a licensee pursuant to this chapter shall not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee. The information shall be privileged and confidential, provided, however, that nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in investigations, in ethical investigations conducted by private professional organizations, or in the course of peer reviews, or to other persons active in the organization performing services for that client on a need to know basis or to persons in the entity who need this information for the sole purpose of assuring quality control.

2. A licensee shall not be examined by judicial process or proceedings without the consent of the licensee's client as to any communication made by the client to the licensee in person or through the media of books of account and financial records, or the licensee's advice, reports or working papers given or made thereon in the course of professional employment, nor shall a secretary, stenographer, clerk or assistant of a licensee, or a public accountant, be examined, without the consent of the client concerned, regarding any fact the knowledge of which he or she has acquired in his or her capacity as a licensee. This privilege shall exist in all cases except when material to the defense of an action against a licensee.

326.325. WORK PRODUCT, PROPERTY OF LICENSEE — CONSENT OF CLIENT NECESSARY FOR DISCLOSURE. — 1. Subject to the provisions of section 326.322, all statements, records, schedules, working papers and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee, incident to, or in the course of, rendering services to a client while a licensee, except the reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper or memorandum shall be sold, transferred or bequeathed without the consent of the client or the client's personal representative or assignee to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders or new members of the licensee, or any combined or merged firm or successor in interest to the licensee. Nothing in this section should be construed as prohibiting any temporary transfer of work papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to section 326.322.

2. A licensee shall furnish to a client or former client, upon request and reasonable notice:

(1) A copy of the licensee's working papers to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(2) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.

3. Nothing in this section shall require a licensee to keep any paperwork beyond the period prescribed in any other applicable statute, nor shall it prohibit a licensee from charging a reasonable fee for furnishing the requested materials.

4. Notwithstanding the provisions of this chapter to the contrary, documents otherwise subject to lawful discovery in a court proceeding pursuant to the Missouri rules of civil procedure prior to August 28, 2001, shall remain subject to such lawful discovery.

326.328. SECRETARY OF STATE TO ACT AS APPLICANT'S AGENT, WHEN. — Application by a person or a firm not a resident of this state shall constitute and authorize appointment of the Missouri secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed within this state.

326.331. SEVERABILITY CLAUSE. — If any provisions of sections 326.250 to 326.331 or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of the invalid provision to others or other circumstances shall not be affected.

327.011. DEFINITIONS. — As used in this chapter, the following words and terms shall have the meanings indicated:

(1) "Accredited degree program from a school of architecture", a degree from any school or other institution which teaches architecture and whose curricula for the degree in question have been, at the time in question, certified as accredited by the National Architectural Accrediting Board;

(2) "Accredited school of landscape architecture", any school or other institution which teaches landscape architecture and whose curricula on the subjects in question are or have been at the times in question certified as accredited by the Landscape Architecture Accreditation Board of the American Society of Landscape Architects;

(3) "Accredited school of engineering", any school or other institution which teaches engineering and whose curricula on the subjects in question are or have been, at the time in question certified as accredited by the engineering accreditation commission of the accreditation board for engineering and technology or its successor organization;

[(3)] (4) "Architect", any person authorized pursuant to the provisions of this chapter to practice architecture in Missouri, as the practice of architecture is defined in section 327.091;

[(4)] (5) "Board", the Missouri board for architects, professional engineers, [and] professional land surveyors **and landscape architects**;

[(5)] (6) "Corporation", any general business corporation, professional corporation or limited liability company;

(7) "Department", the department of economic development;

(8) "Division", the division of professional registration in the department of economic development;

(9) "Landscape architect", any person licensed pursuant to the provisions of sections 327.600 to 327.635 who is qualified to practice landscape architecture by reason of special knowledge and the use of biological, physical, mathematical and social sciences and the

principles and methods of analysis and design of the land, has demonstrated knowledge and ability in such areas, and has been duly licensed as a landscape architect by the board on the basis of professional education, examination and experience in landscape architecture;

[(6)] (10) "Partnership", any partnership or limited liability partnership;

[(7)] (11) "Person", any person, corporation, firm, partnership, association or other entity;

[(8)] (12) "Professional engineer", any person authorized pursuant to the provisions of this chapter to practice as a professional engineer in Missouri, as the practice of engineering is defined in section 327.181;

[(9)] (13) "Professional land surveyor", any person authorized pursuant to the provisions of this chapter to practice as a professional land surveyor in Missouri as the practice of land surveying is defined in section 327.272.

327.031. BOARD ESTABLISHED, MEMBERSHIP, OFFICERS, QUALIFICATIONS OF MEMBERS — HOW APPOINTED — TERMS — VACANCY, HOW FILLED — MAY SUE AND BE SUED — ABOLISHMENT OF COUNCIL — TRANSFER OF FUND. — 1. The "Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors **and Landscape Architects**" is hereby established and shall consist of [eleven] **fourteen** members: a chairperson, who may be either an architect, a professional engineer or a professional land surveyor; three architects, who shall constitute the architectural division of the board; three professional engineers, who shall constitute its professional engineering division; three professional land surveyors, who shall constitute its professional land surveying division; **three landscape architects, who shall constitute its landscape architecture division;** and a voting public member.

2. After receiving his or her commission and before entering upon the discharge of his or her official duties, each member of the board shall take, subscribe to and file in the office of the secretary of state the official oath required by the constitution.

3. The chairperson shall be the administrative and executive officer of the board, and it shall be his or her duty to supervise and expedite the work of the board and its divisions, and, at his or her election, when a tie exists between the divisions of the board, to break the tie by recording his or her vote for or against the action upon which the divisions are in disagreement. Each member of the architectural division shall have one vote when voting on an action pending before the board; each member of the professional engineering division shall have one vote when voting on an action pending before the board; **the chairperson of the landscape architecture division or the chairperson's designee shall have one vote when voting on an action pending before the board;** and each member of the professional land surveying division shall have one vote when voting on an action pending before the board. Every motion or proposed action upon which the divisions of the board are tied shall be deemed lost, and the chairperson shall so declare, unless the chairperson shall elect to break the tie as provided in this section. **[Six] Seven voting** members of the board and two members of each division shall constitute a quorum, respectively, for the transaction of business.

4. Each division of the board shall, at its first meeting in each even-numbered year, elect one of its members as division chairperson for a term of two years. The chairpersons of the architectural division [and], professional engineering division and the professional land surveying division so elected shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the chairperson of the architectural division shall be the ranking vice chairperson, and when the chairperson of the board is a professional engineer, the chairperson of the professional engineering division shall be the ranking vice chairperson, and when the chairperson of the board is a professional land surveyor, the chairperson of the professional land surveying division shall be the ranking vice chairperson. The chairperson of each division shall be the administrative and executive officer of his or her division, and it shall be his or her duty to supervise and expedite the work of the division, and, in case of a tie vote on any matter, the

chairperson shall, at his or her election, break the tie by his or her vote. Every motion or question pending before the division upon which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless the chairperson shall elect to break such tie by his or her vote.

5. Any person appointed to the board, except a public member, shall be a currently licensed architect, licensed professional engineer [or], licensed professional land surveyor **or registered or licensed landscape architect** in Missouri, as the vacancy on the board may require, who has been a resident of Missouri for at least five years, who has been engaged in active practice as an architect, professional engineer [or], professional land surveyor **or landscape architect**, as the case may be, for at least ten consecutive years immediately preceding such person's appointment and who is and has been a citizen of the United States for at least five years immediately preceding such person's appointment. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of engineering shall be regarded as active practice of engineering, for the purposes of this chapter. Active service as a faculty member, after meeting the qualifications required by section 327.314, while holding the rank of assistant professor or higher in an accredited school of engineering and teaching land surveying courses shall be regarded an active practice of land surveying for the purposes of this chapter. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of architecture shall be regarded as active practice of architecture for the purposes of this chapter; provided, however, that no faculty member of an accredited school of architecture shall be eligible for appointment to the board unless such person has had at least three years' experience in the active practice of architecture other than in teaching. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

6. The governor shall appoint the chairperson and the other members of the board when a vacancy occurs either by the expiration of a term or otherwise, and each board member shall serve until such member's successor is appointed and has qualified. The position of chairperson shall alternate among an architect, a professional engineer and a professional land surveyor. All appointments, except to fill an unexpired term, shall be for terms of four years; but no person shall serve on the board for more than two consecutive four-year terms, and each four-year term shall be deemed to have begun on the date of the expiration of the term of the board member who is being replaced or reappointed, as the case may be. Any appointment to the board which is made when the senate is not in session shall be submitted to the senate for its advice and consent at its next session following the date of the appointment.

7. In the event that a vacancy is to occur on the board because of the expiration of a term, then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs, the president of the American Institute of Architects/Missouri if the vacancy to be filled requires the appointment of an architect, **the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect**, the president of the Missouri Society of Professional Engineers if the vacancy to be filled requires the appointment of an engineer, and the president of the Missouri [Association of Registered Land] **Society of Professional** Surveyors if the vacancy to be filled requires the appointment of a land surveyor, shall submit to the director of the division of professional registration a list of five architects or five professional engineers, **five landscape architects** or five professional land

surveyors, as the case may require, qualified and willing to fill the vacancy in question, with the recommendation that the governor appoint one of the five persons so listed; and with the list of names so submitted, the president of the appropriate organization shall include in a letter of transmittal a description of the method by which the names were chosen. This subsection shall not apply to public member vacancies.

8. The board may sue and be sued as the Missouri board for architects, professional engineers, [and] professional land surveyors **and landscape architects**, and its members need not be named as parties. Members of the board shall not be personally liable either jointly or severally for any act or acts committed in the performance of their official duties as board members, nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

9. **Upon appointment by the governor and confirmation by the senate of the landscape architecture division, the landscape architectural council is hereby abolished and all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri board for architects, professional engineers, professional land surveyors and landscape architects established pursuant to this section. Every act performed by or under the authority of the Missouri board for architects, professional engineers, professional land surveyors and landscape architects shall be deemed to have the same force and effect as if performed by the landscape architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the landscape architectural council shall continue in effect and shall be deemed to be duly adopted rules and regulations of the Missouri board of architects, professional engineers, professional landscape architects and land surveyors until such rules and regulations are revised, amended or repealed by the board as provided by law, such action to be taken by the board on or before January 1, 2002.**

10. **Upon appointment by the governor and confirmation by the senate of the landscape architecture division, all moneys deposited in the landscape architectural council fund created in section 327.625 shall be transferred to the state board for architects, professional engineers, professional land surveyors and landscape architects fund created in section 327.081. The landscape architectural council fund shall be abolished upon the transfer of all moneys in it to the state board of architects, professional engineers, land surveyors and landscape architects.**

327.041. BOARD, POWERS AND DUTIES — RULES, GENERALLY, THIS CHAPTER, PROCEDURE. — 1. The board shall have the duty and the power to carry out the purposes and to enforce and administer the provisions of this chapter, to require, by summons or subpoena, with the advice of the attorney general and upon the vote of two-thirds of the voting board members, the attendance and testimony of witnesses, and the production of drawings, plans, plats, specifications, books, papers or any document representing any matter under hearing or investigation, pertaining to the issuance, probation, suspension or revocation of certificates of registration or certificates of authority provided for in this chapter, or pertaining to the unlawful practice of architecture, professional engineering [or], professional land surveying **or landscape architecture.**

2. The board shall, within the scope and purview of the provisions of this chapter, prescribe the duties of its officers and employees and adopt, publish and enforce the rules and regulations of professional conduct which shall establish and maintain appropriate standards of competence and integrity in the professions of architecture, professional engineering [and], professional land surveying **and landscape architecture**, and adopt, publish and enforce procedural rules and regulations as may be considered by the board to be necessary or proper for the conduct of the board's business and the management of its affairs, and for the effective administration and interpretation of the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter

shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. [All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.] **This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

3. Rules promulgated by the board pursuant to sections 327.272 to [327.371] **327.635** shall be consistent with and shall not supersede the rules promulgated by the department of natural resources pursuant to chapter 60, RSMo.

327.081. FUND ESTABLISHED, DEPOSITS — EXPENDITURES, HOW PAID — TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. All funds received pursuant to the provisions of this chapter shall be deposited in the state treasury to the credit of the "State Board for Architects, Professional Engineers [and], Land Surveyors and **Landscape Architects Fund**" which is hereby established. All expenditures authorized by this chapter shall be paid from funds appropriated to the board by the general assembly from this fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

327.131. APPLICANT FOR LICENSE AS ARCHITECT, QUALIFICATIONS. — 1. Any person may apply to the board for examination and license as an architect who is over the age of twenty-one, is of good moral character, and is a graduate of and holds [a degree in architecture from an accredited] **an accredited degree from an accredited degree program from a school of architecture and has acquired at least three years of satisfactory architectural experience [after acquiring the degree aforesaid, or].** Prior to January 1, 2012, any applicant who possesses the age and character qualifications as provided in this subsection and who has acquired a combined total of twelve years of education, above the high school level, and satisfactory architectural experience **may apply to the board for examination and license as an architect.** **Beginning January 1, 2012, all new applicants shall hold an accredited degree from an accredited degree program from a school of architecture.**

2. The board shall provide by rule what shall constitute satisfactory architectural experience, based upon recognized education and training equivalents.

3. **Beginning January 1, 2002, each applicant who has graduated with an accredited degree from an accredited degree program from a school of architecture shall complete the intern development program (IDP) as defined in the IDP Guidelines: Intern Development Program, 1994, as published by the National Council of Architectural Registration Boards, as amended. Completion of the intern development program shall be deemed to be satisfactory architectural experience.**

327.314. PROFESSIONAL LAND SURVEYOR, APPLICANT FOR EXAMINATION AND LICENSE, QUALIFICATIONS. — [Any person may apply to the board for examination and license as a professional land surveyor who has been enrolled as a land surveyor-in-training for a period of not less than one year and who has presented evidence to the satisfaction of the board that such person has completed the following requirement: a person who applied for enrollment as a land surveyor-in-training under the provisions of subsection 1 or 2 of section 327.312 must have acquired at least two years of satisfactory professional field and office experience in land surveying projects under the immediate personal supervision of a professional land surveyor in addition to the experience required for enrollment as a land surveyor-in-training. A person who applied for enrollment as a land surveyor-in-training under the provisions of subsection 3 of section 327.312 must have acquired at least one year of satisfactory professional field and office experience in land surveying projects under the immediate personal supervision of a professional land surveyor in addition to the experience required for enrollment as a land surveyor-in-training. At any time prior to January 1, 1991, any person possessing the experience qualifications above set forth may apply to the board for examination and license as a professional land surveyor if the applicant either:

(1) Is a graduate of and holds a degree in engineering from an accredited school of engineering and has acquired at least two years of satisfactory land surveying experience after such person has graduated and has received a degree as aforesaid; or

(2) Is a high school graduate, or holds a Missouri certificate of high school equivalence (GED), and after such graduation or after having acquired the certificate, has acquired at least eight years of satisfactory education and experience in land surveying.] **1. Any person may apply to the board for examination and licensure as a professional land surveyor who has been enrolled as a land surveyor-in-training and has presented evidence to the satisfaction of the board that said person has acquired at least four years of satisfactory professional field and office experience in land surveying from the date of enrollment as a land surveyor-in-training. This experience shall have been under the immediate personal supervision of a professional land surveyor.**

2. At any time prior to January 1, 2006, any applicant enrolled as a land surveyor-in-training under the provisions of subsections (1) or (2) of section 327.312, must have acquired at least two years of satisfactory professional field and office experience in land surveying under the immediate supervision of a professional land surveyor. Any person who applied for enrollment as a land surveyor-in-training under the provisions of subsection (3) of section 327.312, must have acquired at least one year of satisfactory professional field and office experience in land surveying under the immediate supervision of a professional land surveyor.

327.381. BOARD MAY LICENSE ARCHITECT, PROFESSIONAL ENGINEER, LAND SURVEYOR OR LANDSCAPE ARCHITECT WITHOUT EXAMINATION, WHEN. — The board shall issue a license to any architect, professional engineer [or], professional land surveyor **or landscape architect** who has been licensed in another state, territory or possession of the United States, or in another country, provided that the board is satisfied by proof adduced by such applicant that the applicant's qualifications meet or exceed the requirements for initial licensure in Missouri at the time of the applicant's initial license, and provided further that the board may establish by rule the conditions under which it shall require any such applicant to take any examination it considers necessary, and provided further that the board is satisfied by proof adduced by such applicant that the applicant is of good moral character, and provided further that any such application is accompanied by the required fee which shall be equal to the examination fee.

327.600. DEFINITIONS. — As used in sections 327.600 to 327.635, the following terms mean:

(1) ["Accredited school of landscape architecture", any school or other institution which teaches landscape architecture and whose curricula on the subjects in question are or have been at the times in question certified as accredited by the Landscape Architecture Accreditation Board of the American Society of Landscape Architects;

(2) "Council", the landscape architecture council;

(3) "Department", the department of economic development;

(4) "Division", the division of professional registration of the department of economic development;

(5) "Landscape architect", any person registered under the provisions of sections 327.600 to 327.635 who performs work consisting only of consultations concerning and preparation of master plans for parks, land areas or the preparation of plans for and the supervision of the planting and grading or the construction of walks and paving for parks or land areas and such other minor structural features as fences, steps, walls, small decorative pools and other construction not involving structural design or stability and which is usually and customarily included within the area or work of a landscape architect;

(6) "Person", any person, firm, corporation, partnership, association, or other entity] **"Landscape architecture", the performance of professional services, including but not limited to consultations, research, planning, design or responsible supervision in connection with the development of land, in which the dominant purpose of such professional services is the preservation, enhancement or determination of land uses, natural land features, ground cover and planting, naturalistic and esthetic value, settings and approaches to structures or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight or other hazard;**

(2) **"Practice of landscape architecture", the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes specified in the definition of landscape architecture, but shall not include the design of structures or facilities with separate and self-contained purposes such as are ordinarily included in the practice of engineering or architecture, and shall not include the making of final land plats for official approval or recording.**

327.603. LICENSE REQUIRED TO USE TITLE OF LANDSCAPE ARCHITECT. — 1. One year from the appointment of the landscape architecture division, no person shall [use the name or title landscape architect, landscape architecture, landscape architectural, or L.A. in this state unless he is registered as required by sections 327.600 to 327.635 provided, however, that nothing in sections 327.600 to 327.635 shall be construed as limiting or preventing the practice of a person's profession or restricting a person from providing landscape architectural services so long as such person does not hold himself out to the public by title as being registered under sections 327.600 to 327.635] **practice or offer to practice, or hold himself or herself out as a landscape architect or as being able to practice landscape architecture in this state or to use in connection with his or her name or otherwise assume, or advertise unless he or she is licensed as required by this chapter. Nothing in sections 327.600 to 327.635 shall be construed to require licensing of employees of the state of Missouri or its political subdivisions while performing duties for the state of Missouri or a political subdivision, provided the project does not jeopardize the public health, safety and welfare. Sections 327.600 to 327.635 shall not be construed to prohibit those persons engaged in nursery occupations, gardeners, landscape contractors, home builders or residential developers from preparing planting plans and items incidental thereto, provided the project scope does not jeopardize the public health, safety and welfare; nor shall sections 327.600 to 327.635 be construed to prevent the practice of any other legally recognized profession as governed by applicable law. Nothing contained in this section shall under any circumstances be construed as in any way affecting the laws relating to the practice,**

licensing, certification or registration of architects, engineers and land surveyors. An architect, engineer or land surveyor licensed, certified or registered to practice his or her profession or occupation pursuant to the provisions of any law to regulate the practice of such profession or occupation is exempt from licensing as a landscape architect, and nothing contained in this section shall under any circumstances be construed as in any way precluding an architect or engineer from performing any of the services included within the definition of the term landscape architecture in section 327.600.

2. The licensure requirement shall be waived for those persons who hold a current registration by the division as a landscape architect on or before August 28, 2001, provided that application is made on a form prescribed by the board on or before December 31, 2002. The licensure requirement shall be waived for those persons whose certificates of registration have expired on or before August 28, 2002, by being approved by the board for reinstatement of expired registration and then making application for licensure on a form prescribed by the board on or before December 31, 2002.

327.607. EXAMINATION — AUTHORITY OF BOARD TO OBTAIN SERVICES OF SPECIALLY TRAINED PERSONS. — The [council] **board** shall conduct all examinations, determine which applicants have successfully passed the examinations and recommend each such applicant to the division for [registration] **licensure** as a landscape architect. The [council] **board** may obtain the services of specially trained and qualified persons or organizations to assist in conducting examinations of applicants for [registration] **licensure**. Certification of an applicant's technical qualifications by the council of landscape architectural registration boards may be accepted by this state's [council] **board** as establishing such qualifications and the applicant shall not be required to pass any further examination.

327.612. APPLICANTS FOR EXAMINATION AND LICENSURE AS LANDSCAPE ARCHITECT — QUALIFICATIONS. — Any person who is of good moral character, has attained the age of twenty-one years, and has [either] a degree in landscape architecture from an accredited school of landscape architecture and has acquired at least three years satisfactory landscape architectural experience after acquiring such a degree[, or has eight years or more of satisfactory training and experience, as defined by rule, in the practice of landscape architecture,] may apply to the [council] **board** for examination and [registration] **licensure** as a landscape architect.

327.615. APPLICATION, FORM, CONTENT, OATH OR AFFIRMATION OF TRUTH, PENALTIES FOR MAKING FALSE AFFIDAVIT, FEE. — Applications for examinations and [registration] **licensure** as a landscape architect shall be typewritten on [prescribed forms furnished to the applicant] **forms approved by the board**. The application shall contain the applicant's statements showing the applicant's education, experience, results of previous landscape architectural licensing examinations, if any, and such other pertinent information as the [council] **board** may require. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application subject to the penalties of making a false affidavit or declaration, and shall be accompanied by the required fee.

327.617. EXAMINATION — NOTICE TO BE SENT TO APPLICANT — TO BE GIVEN ANNUALLY, CONTENT. — 1. After the [council] **board** has determined upon such inquiry and by such methods as it may consider proper that an applicant possesses the qualifications entitling [him] **the applicant** to be examined, each applicant for examination and [registration] **licensure** as a landscape architect shall appear before the [council] **board** or its representatives for examination at the time and place specified by the [council] **board** in a written notice to each such applicant, provided that an examination shall be given at least once in each calendar year.

2. The written examination shall be of such form, content and duration as determined by the [council] **board** to thoroughly test the qualifications of each applicant.

3. Any person who passes the examination prescribed by the [council] **board** shall be entitled to be [registered] **licensed** as a landscape architect in Missouri, subject to the other provisions of sections 327.600 to 327.635.

327.621. LICENSE ISSUANCE AND RENEWAL, FEE — FAILURE TO RENEW, EFFECT — REINSTATEMENT FEE MUST BE PAID WHEN — LICENSE NOT RENEWED TO EXPIRE, WHEN — RENEWAL OR REREGISTRATION FORM AND FEE. — 1. The [certificate of registration] **license** issued to every [registered] landscape architect in Missouri shall be renewed on or before the [certificate] **license** renewal date, provided that the required fee is paid. The [certificate of registration] **license** of a landscape architect which is not renewed within three months of the [certificate] renewal date shall be suspended automatically, subject to the right of the holder thereof to have such suspended [certificate of registration] **license** reinstated within nine months of the date of suspension, if the reinstatement fee is paid. Any [certificate of registration] **license** suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder thereof shall have no rights or privileges thereunder; provided, however, any person whose [certificate of registration] **license** has expired may within the discretion of the [council] **board**, upon payment of the fee [specified hereinafter] **provided pursuant to section 327.625**, be [reregistered] **relicensed** or reauthorized under his or its original [certificate of registration] **license** number.

2. Each application for the renewal of a [registration] **licensure** shall be on a form furnished to the applicant and shall be accompanied by the required fee.

327.623. LICENSURE WITHOUT EXAMINATION, PERSONS LICENSED IN ANOTHER STATE, WHEN. — The [council] **board** may [register] **license**, in its discretion and without examination, any landscape architect certified, licensed or registered in another state or territory of the United States when such applicant has qualifications which are at least equivalent to the requirements for [registration] **licensure** as a landscape architect in this state.

327.629. LICENSURE AS LANDSCAPE ARCHITECT REQUIRED TO USE TITLE — LIMITATIONS AS TO PRACTICE. — No person shall [use the designation] **practice as a** landscape architect in Missouri as defined in section 327.600 unless and until the [division] **board** has issued to him **or her** a [certificate of registration] **license** certifying that he **or she** has been duly [registered] **licensed** as a landscape architect in Missouri, and unless such [registration] **licensure** has been renewed as provided in section 327.621; provided, however, that nothing in sections 327.600 to 327.635 shall be construed as authorizing a landscape architect to engage in the practice of architecture, engineering, land surveying or to affect or prevent the practice of architecture by an architect licensed [under] **pursuant to** the laws of this state, or to affect or prevent the practice of engineering by a professional engineer licensed [under] **pursuant to** the laws of this state, or to affect or prevent the practice of land surveying by a land surveyor licensed [under] **pursuant to** the laws of this state; or to apply to any person licensed as an architect, professional engineer or land surveyor in this state except that no person shall [use the designation landscape architect, landscape architectural or landscape architecture or L.A. unless registered under] **hold themselves out to be a landscape architect unless licensed pursuant to** the provisions of sections 327.600 to 327.635.

327.630. RIGHT TO PRACTICE AS LANDSCAPE ARCHITECT PERSONAL RIGHT AND NOT TRANSFERABLE — MAY PRACTICE AS MEMBER OF PARTNERSHIP OR CORPORATION. — The right to [use the designation of] **practice as a** landscape architect shall be deemed a personal right, based upon the qualifications of the individual, evidenced by his [certificate of registration]

or her license and shall not be transferable; provided, however, that any [registered] **licensed** landscape architect may practice his **or her** profession through the medium of, or as a member or as an employee of, a partnership or corporation.

327.631. REFUSAL TO ISSUE, RENEW OR REINSTATE LICENSE, PROCEDURE — GROUNDS FOR — PENALTIES THAT COUNCIL MAY INVOKE. — 1. The [council] **board** may refuse to issue any [certificate] **license** required pursuant to section 327.629, or renewal or reinstatement thereof, for one or any combination of causes stated in subsection 2 of this section. The [council] **board** shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his **or her** right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The [council] **board** may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any [certificate of registration] **license** required by section 327.629 or any person who has failed to renew or has surrendered his [certificate of registration] **or her license** for any one or any combination of the following causes:

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution [under] **pursuant to** the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of the profession regulated [under] **pursuant to** sections 327.600 to 327.635, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(2) Use of fraud, deception, misrepresentation or bribery in securing any [certificate of registration] **license** or authority, permit or license issued pursuant to sections 327.600 to 327.635 or in obtaining permission to take any examination given or required pursuant to sections 327.600 to 327.635;

(3) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(4) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 327.600 to 327.635;

(5) Violation of, or assisting or enabling any person to violate, any provision of sections 327.600 to 327.635, or of any lawful rule or regulation adopted pursuant to such sections;

(6) Impersonation of any person holding a [certificate of registration] **license** or authority, permit or license allowing any person to use his or her certificate or diploma from any school;

(7) Disciplinary action against the holder of a [certificate of registration] **license** or other right to practice the profession regulated by sections 327.600 to 327.635 granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(8) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(9) Issuance of a [certificate of registration] **license** based upon a material mistake of fact;

(10) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapters 536 and 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the [council] **board** may censure or place the person named in the complaint on probation on such terms and conditions as the [council] **board** deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the [certificate of registration] **license**.

329.010. DEFINITIONS. — As used in this chapter, unless the context clearly indicates otherwise, the following words and terms mean:

(1) "Apprentice" or "student", a person who is engaged in training within a cosmetology establishment or school, and while so training performs any of the practices of the classified occupations within this chapter under the immediate direction and supervision of a registered cosmetologist or instructor;

(2) "Board", the state board of cosmetology;

(3) "Cosmetologist", any person who, for compensation, engages in the practice of cosmetology, as defined in subdivision (4) of this section;

(4) "Cosmetology" includes performing or offering to engage in any acts of the classified occupations of cosmetology for compensation, which shall include:

(a) "Class CH - hairdresser" includes arranging, dressing, curling, singeing, waving, permanent waving, cleansing, cutting, bleaching, tinting, coloring or similar work upon the hair of any person by any means; or removing superfluous hair from the body of any person by means other than electricity, or any other means of arching or tinting eyebrows or tinting eyelashes. Class CH - hairdresser, also includes, any person who either with the person's hands or with mechanical or electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams engages for compensation in any one or any combination of the following: massaging, cleaning, stimulating, manipulating, exercising, beautifying or similar work[,] upon the scalp, face, neck, arms or bust;

(b) "Class MO - manicurist" includes cutting, trimming, polishing, coloring, tinting, cleaning or otherwise beautifying a person's fingernails, applying artificial fingernails, massaging, cleaning a person's hands and arms; pedicuring, which includes, cutting, trimming, polishing, coloring, tinting, cleaning or otherwise beautifying a person's toenails, applying artificial toenails, massaging and cleaning a person's legs and feet;

(c) "Class CA - hairdressing and manicuring" includes all practices of cosmetology, as defined in paragraphs (a) and (b) of this subdivision;

(d) "Class E - estheticians" includes the use of mechanical, electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, not to exceed ten percent phenol, engages for compensation, either directly or indirectly, in any one, or any combination, of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work upon the scalp, face, neck, ears, arms, hands, bust, torso, legs or feet and removing superfluous hair by means other than electric needle or any other means of arching or tinting eyebrows or tinting eyelashes, of any person;

(5) "Cosmetology establishment", that part of any building wherein or whereupon any of the classified occupations are practiced;

(6) "Hairdresser", any person who, for compensation, engages in the practice of cosmetology as defined in paragraph (a) of subdivision (4) of this section;

(7) "Instructor", any person who is licensed to teach cosmetology or any practices of cosmetology pursuant to this chapter;

(8) "Manicurist", any person who, for compensation, engages in any or all of the practices in paragraph (b) of subdivision (4) of this section;

(9) "School of cosmetology" or "school of manicuring", an establishment operated for the purpose of teaching cosmetology as defined in subdivision (4) of this section.

329.040. SCHOOLS OF COSMETOLOGY — LICENSE REQUIREMENTS, APPLICATION, FORM — HOURS REQUIRED FOR STUDENT COSMETOLOGISTS, NAIL TECHNICIANS AND ESTHETICIANS. — 1. Any person of good moral character may make application to the board for a license to own a school of cosmetology on a form provided upon request by the board. Every school of cosmetology in which any of the classified occupations of cosmetology are taught shall be required to obtain a license from the board prior to opening. The license shall be issued upon approval of the application by the board, the payment of the required fees, and the

applicant meets other requirements provided in this chapter. The license shall be kept posted in plain view within the school at all times.

2. A school license renewal fee shall be due on or before the renewal date of any school license issued pursuant to this section. If the school license renewal fee is not paid on or before the renewal date, a late fee shall be added to the regular school license fee.

3. No school of cosmetology shall be granted a license [under] **pursuant to** this chapter unless it:

(1) Employs and has present in the school a competent licensed instructor for every twenty-five students [enrolled and scheduled to be] in attendance for a given class period and one to ten additional students may be [enrolled and] in attendance with the assistance of an instructor trainee. One instructor is authorized to teach up to three instructor trainees immediately after being granted an instructor's license;

(2) Requires all students to be enrolled in a course of study of no less than three hours per day and no more than [eight] **twelve** hours per day with a weekly total that is no less than fifteen hours and no more than [forty-eight] **seventy-two** hours;

(3) Requires for the classified occupation of cosmetologist, the course of study shall be no less than one thousand five hundred hours or, for a student in public vocational/technical school no less than one thousand two hundred twenty hours; **provided that, a school may elect to base the course of study on credit hours by applying the credit hour formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended.** The student must earn a minimum of one hundred and sixty hours **or equivalent credits** of classroom training before the student may perform any of the acts of the classified occupation of cosmetology on any patron or customer of the school of cosmetology;

(4) Requires for the classified occupation of manicurist, the course of study shall be no less than [three hundred and ninety hours] **four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended.** The student must earn a minimum of fifty hours **or equivalent credits** of classroom training before the student may perform any of the acts of the classified occupation of manicurist on any patron or customer of the school of cosmetology;

(5) Requires for the classified occupation of esthetician, the course of study shall be no less than seven hundred fifty hours **or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended.** The student shall earn a minimum of seventy-five hours **or equivalent credits** of classroom training before the student may perform any of the acts of the classified occupation of esthetics on any patron or customer of the school of cosmetology or an esthetics school;

4. The subjects to be taught for the classified occupation of cosmetology shall be as follows and the hours required for each subject shall be not less than those contained in this subsection **or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:**

- (1) Shampooing of all kinds, forty hours;
 - (2) Hair coloring, bleaches and rinses, one hundred thirty hours;
 - (3) Hair cutting and shaping, one hundred thirty hours;
 - (4) Permanent waving and relaxing, one hundred twenty-five hours;
 - (5) Hairsetting, pin curls, fingerwaves, thermal curling, two hundred twenty-five hours;
 - (6) Combouts and hair styling techniques, one hundred five hours;
 - (7) Scalp treatments and scalp diseases, thirty hours;
 - (8) Facials, eyebrows and arches, forty hours;
 - (9) Manicuring, hand and arm massage and treatment of nails, one hundred ten hours;
 - (10) Cosmetic chemistry, twenty-five hours;
 - (11) Salesmanship and shop management, ten hours;
 - (12) Sanitation and sterilization, thirty hours;
 - (13) Anatomy, twenty hours;
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(14) State law, ten hours;

(15) Curriculum to be defined by school, not less than four hundred seventy hours.

5. The subjects to be taught for the classified occupation of manicurist shall be as follows and the hours required for each subject shall be not less than those contained in this subsection **or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:**

(1) Manicuring, hand and arm massage and treatment of nails, two hundred twenty hours;

(2) Salesmanship and shop management, twenty hours;

(3) Sanitation and sterilization, twenty hours;

(4) Anatomy, ten hours;

(5) State law, ten hours;

(6) Study of the use and application of certain chemicals, forty hours; **and**

(7) Curriculum to be defined by school, not less than [seventy] **eighty** hours.

6. The subjects to be taught for the classified occupation of esthetician shall be as follows, and the hours required for each subject shall not be less than those contained in this subsection **or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:**

(1) Facials, cleansing, toning, massaging, one hundred twenty hours;

(2) Makeup application, all phases, one hundred hours;

(3) Hair removal, thirty hours;

(4) Body treatments, aromatherapy, wraps, one hundred twenty hours;

(5) Reflexology, thirty-five hours;

(6) Cosmetic sciences, structure, condition, disorder, eighty-five hours;

(7) Cosmetic chemistry, products and ingredients, seventy-five hours;

(8) Salon management and salesmanship, fifty-five hours;

(9) Sanitation and sterilization, safety, forty-five hours;

(10) State law, ten hours; **and**

(11) Curriculum to be defined by school, not less than seventy-five hours.

7. Training for all classified occupations shall include practical demonstrations, written and/or oral tests, and practical instruction in sanitation, sterilization and the use of antiseptics, cosmetics and electrical appliances consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this chapter.

8. No school of cosmetology shall operate within this state unless a proper license [under] **pursuant to** this chapter has first been obtained.

9. Nothing contained in this chapter shall prohibit a licensee within a cosmetology establishment from teaching any of the practices of the classified occupations for which the licensee has been licensed for not less than two years in the licensee's regular course of business, if the owner or manager of the business does not hold himself or herself out as a school and does not hire or employ or personally teach regularly at any one and the same time, more than one apprentice to each licensee regularly employed within the owner's business, not to exceed one apprentice per establishment, and the owner, manager, or trainer does not accept any fee for instruction.

10. Each licensed school of cosmetology shall provide a minimum of two thousand square feet of floor space, adequate rooms and equipment, including lecture and demonstration rooms, lockers, an adequate library and two restrooms. The minimum equipment requirements shall be: six shampoo bowls, ten hair dryers, two master dustproof and sanitary cabinets, wet sterilizers, and adequate working facilities for twenty students.

11. Each licensed school of cosmetology for manicuring only shall provide a minimum of one thousand square feet of floor space, adequate room for theory instruction, adequate equipment, lockers, an adequate library, two restrooms and a clinical working area for ten students. Minimum floor space requirement proportionately increases with student enrollment of over ten students.

12. Each licensed school of cosmetology for esthetics only shall provide a minimum of one thousand square feet of floor space, adequate room for theory instruction, adequate equipment, lockers, an adequate library, two restrooms and a clinical working area for ten students. Minimum floor space requirement increases fifty square feet per student with student enrollment of over ten.

13. No school of cosmetology may have a greater number of students enrolled and scheduled to be in attendance for a given class period than the total floor space of that school will accommodate. Floor space required per student shall be no less than fifty square feet per additional student beyond twenty students for a school of cosmetology, beyond ten students for a school of manicuring and beyond ten students for a school of esthetics.

14. Each applicant for a new school shall file a written application with the board upon a form approved and furnished upon request by the board. The applicant shall include a list of equipment, the proposed curriculum, and the name and qualifications of any and all of the instructors.

15. Each school shall display in a conspicuous place, visible upon entry to the school, a sign stating that all cosmetology services in this school are performed by students, who are in training.

16. Any student who wishes to remain in school longer than the required training period may make application for an additional training license and remain in school. A fee is required for such additional training license.

17. All contractual fees that a student owes to any cosmetology school shall be paid before such student may be allowed to apply for any examination required to be taken by an applicant applying for a license [under] **pursuant to** the provisions of this chapter.

329.050. APPLICANTS FOR EXAMINATION OR LICENSURE — QUALIFICATIONS. — 1. Applicants for examination or licensure [under] **pursuant to** this chapter shall possess the following qualifications:

(1) They must be persons of good moral character, have an education equivalent to the successful completion of the tenth grade and be at least seventeen years of age;

(2) If the applicants are apprentices, they shall have served and completed, as an apprentice under the supervision of a licensed cosmetologist, the time and studies required by the board which shall be no less than three thousand hours for cosmetologists, and no less than seven hundred eighty hours for manicurists **and no less than fifteen hundred hours for esthetics**. However, when the classified occupation of manicurist is apprenticed in conjunction with the classified occupation of cosmetologist, the apprentices shall be required to successfully complete the apprenticeship of no less than a total of three thousand hours;

(3) If the applicants are students, they shall have had the required time in a licensed school of no less than one thousand five hundred hours training **or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended** for the classification of cosmetologist, with the exception of public vocational technical schools in which a student shall complete no less than one thousand two hundred twenty hours training. All students shall complete no less than [three] **four** hundred [ninety] hours **or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended** for the classification of manicurist. All students shall complete no less than seven hundred fifty hours **or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended** for the classification of esthetician. However, when the classified occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist, the student shall not be required to serve the extra [three] **four** hundred [ninety] hours **or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended** otherwise required to include manicuring of nails; and

(4) They shall have passed an examination to the satisfaction of the board.

2. A person may apply to take the examination required by subsection 1 of this section if the person is a graduate of a school of cosmetology or apprentice program in another state or territory of the United States which has substantially the same requirements as an educational establishment licensed pursuant to this chapter.

3. Each application shall contain a statement that, subject to the penalties of making a false affidavit or declaration, the application is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application.

4. The sufficiency of the qualifications of applicants shall be determined by the board, but the board may delegate this authority to its executive director subject to such provisions as the board may adopt.

5. For the purpose of meeting the minimum requirements for examination, training completed by a student or apprentice shall be recognized by the board for a period of no more than five years from the date it is received.

329.085. INSTRUCTOR LICENSE, QUALIFICATIONS, FEES, EXCEPTIONS. — 1. Any person desiring an instructor license shall submit to the board a written application on a form supplied by the board showing that the applicant has met the requirements set forth in section 329.080. An applicant who has met all requirements as determined by the board shall be allowed to take the instructor examination, **including any person who has been licensed three or more years as a cosmetologist, manicurist or esthetician.** If the applicant passes the examination to the satisfaction of the board, the board shall issue to the applicant an instructor license.

2. The instructor examination fee and the instructor license fee for an instructor license shall be nonrefundable.

3. The instructor license renewal fee shall be in addition to the regular cosmetologist, esthetician or manicurist license renewal fee. For each renewal the instructor shall submit proof of having attended a teacher training seminar or workshop at least once every two years, sponsored by any university, or Missouri vocational association, or bona fide state cosmetology association specifically approved by the board to satisfy the requirement for continued training of this subsection. Renewal fees shall be due and payable on or before the renewal date and, if the fee remains unpaid thereafter in such license period, there shall be a late fee in addition to the regular fee.

4. Instructors duly licensed as physicians or attorneys or lecturers on subjects not directly pertaining to the practice [under] **pursuant to** this chapter need not be holders of licenses provided for in this chapter.

5. The board shall grant instructor licensure upon application and payment of a fee equivalent to the sum of the instructor examination fee and the instructor license fee, provided the applicant establishes compliance with the cosmetology instructor requirements of another state, territory of the United States, or District of Columbia wherein the requirements are substantially equal or superior to those in force in Missouri at the time the application for licensure is filed and the applicant holds a current instructor license in the other jurisdiction at the time of making application.

6. Any person licensed as a cosmetology instructor prior to the training requirements which became effective January 1, 1979, may continue to be licensed as such, provided such license is maintained and the licensee complies with the continued training requirements as provided in subsection 3 of this section. Any person with an expired instructor license that is not restored to current status within two years of the date of expiration, shall be required to meet the training and examination requirements as provided in this section and section 329.080.

329.190. STATE BOARD — APPOINTMENT — TERM — COMPENSATION — QUALIFICATIONS. — 1. The state board of cosmetology shall be composed of seven members, including one voting public member **and one member who is a licensed school owner**

pursuant to subsection 1 of section 329.040, appointed by the governor with the advice and consent of the senate. The term of office of each member shall be four years.

2. The members of the board shall receive as compensation for their services the sum set by the board not to exceed fifty dollars for each day actually spent in attendance at meetings of the board, within the state, not to exceed forty-eight days in any calendar year, and in addition thereto they shall be reimbursed for all necessary expenses incurred in the performance of their duties as members of the board.

3. All members, except the public member, shall be cosmetologists and manicurists duly registered as such and licensed pursuant to the laws of this state, and shall be United States citizens and shall have been residents of this state for at least one year next preceding their appointments and shall have been actively engaged in the lawful practice of cosmetology for a period of at least five years. The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure. **Any member who is a school owner shall not be allowed access to the testing and examination materials nor to attend the administration of the examinations, except when such member is being examined for licensure.**

329.210. POWERS OF BOARD, RULEMAKING.— 1. The board shall have power to:

(1) Prescribe by rule for the examinations of applicants for licensure to practice the classified occupation of cosmetology and issue licenses;

(2) Prescribe by rule for the inspection of cosmetology establishments and schools and appoint the necessary inspectors and examining assistants;

(3) Prescribe by rule for the inspection of establishments and schools of cosmetology [by persons licensed in cosmetology] as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants; and set the amount of the fees which this chapter authorizes and requires, by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering this chapter;

(4) Employ and remove board personnel, as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(5) Elect one of its members president, one vice president and one secretary; [and]

(6) Determine the sufficiency of the qualifications of applicants; **and**

(7) Prescribe by rule the minimum standards and methods of accountability for the schools of cosmetology licensed pursuant to this chapter.

2. The board shall create no expense exceeding the sum received from time to time from fees imposed pursuant to this chapter.

3. [Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and

promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

331.032. TEMPORARY LICENSE ISSUED, WHEN. — Notwithstanding any other provision of law to the contrary, the board of chiropractic examiners may issue a temporary license to practice chiropractic as follows:

(1) To a chiropractor holding a current and unrestricted license to practice chiropractic issued pursuant to the laws of a state other than Missouri;

(2) A temporary license issued pursuant to this section shall be valid for a maximum period of ninety days and the board shall not issue more than two temporary licenses to an applicant during any calendar year;

(3) An applicant for a temporary license shall submit to the board a complete application on a form prescribed by the board, pay an application fee as determined by rule of the board and furnish proof satisfactory to the board that the applicant meets all requirements for licensure, or examination therefor, as set forth in section 331.030;

(4) In addition to all other requirements herein, an applicant for a temporary license pursuant to this section shall include with such applicant's application the name of the chiropractic school or college from which the applicant graduated and the date of such graduation, and evidence of such applicant's current and unrestricted licensure in another state, including the number of such license and a photocopy thereof along with any other evidence deemed necessary by the board;

(5) All provisions of this chapter that apply to applicants for and holders of licenses to practice chiropractic, other than as specified in this section, shall apply to applicants for and holders of temporary licenses, including the board's authority to conduct any investigation the board considers appropriate to verify an applicant's credentials, moral character and fitness to receive a temporary license and the board's authority to take actions pursuant to the provisions of this chapter or any other provision of state law. The board of chiropractic examiners may adopt rules the board considers necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

331.050. LICENSE, RENEWAL, REQUIREMENTS, FEE — LICENSE LAPSE, REINSTATEMENT PROCEDURE. — 1. All persons once licensed to practice chiropractic in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the board satisfactory evidence of the completion of the requisite number of hours, which shall not be less than twelve hours nor more than twenty-four hours per year, of postgraduate study or not less than twenty-four hours nor more than forty-eight hours if renewal occurs biennially. The postgraduate study required shall be [that presented by a college of chiropractic accredited by the Council on Chiropractic Education or] a course of study approved by the board. The requisite number of hours is to be determined by the board. The board may set the requisite number of hours between the range of twelve to twenty-four hours, but may not increase the number of hours in excess of twelve hours by more than four hours in any two-year period. The board shall give advance notice of one year to all chiropractors licensed in the state before increasing the number of required hours. The educational requirements may be waived by the board upon presentation to it of satisfactory evidence of the illness of the chiropractor or for other good cause. A notice that the renewal fee will be due on the renewal date shall, on or before the first day of the month immediately preceding the renewal date, be mailed to all chiropractors licensed in the state for more than three months. Each practitioner of chiropractic shall display in his or her office, in a conspicuous place, his or her renewal license together with his or her original license showing that such practitioner of chiropractic is lawfully entitled to practice chiropractic. Failure of the licensee to receive the renewal form shall not relieve the licensee of the duty to renew his or her license and pay the fee required by this chapter.

2. Any licensee who allows his or her license to lapse by failing to renew the license as provided in sections 331.010 to 331.100 may be reinstated upon satisfactory explanation of such failure to renew his or her license and the payment of a reactivation fee and the current renewal fee. Any delinquent licensee who has been out of active practice for more than three years shall be required to return to an accredited chiropractic college for a semester of additional study in the clinical subjects prior to the board reviewing his or her request for reinstatement, and to pass a practical examination administered by the board.

331.090. STATE BOARD OF CHIROPRACTIC EXAMINERS CREATED — APPOINTMENT — QUALIFICATIONS — TERMS — REMOVAL. — 1. The "Missouri State Board of Chiropractic Examiners" shall consist of five chiropractors, not more than two of whom shall be graduated from the same school or college of chiropractic, and one voting public member, to be appointed by the governor, with the advice and consent of the senate, from nominees submitted by the director of the division of professional registration, for a term of five years; except that, of the chiropractic members appointed for the terms which begin in 1989, one shall be appointed for a term of three years and one for a term of four years, of the chiropractic members appointed for the terms which begin in 1990, one shall be appointed for a term of four years and one shall be appointed for a term of five years, and the chiropractic member appointed for the term which begins in 1991 shall be appointed for a term of five years. **Beginning in 2002, all successors to members shall be appointed to terms of [five years. The person appointed to fill an unexpired term shall serve for the unexpired term only] four years from the date of their appointment and until their successors have been appointed and qualified.** Each member shall be limited to two full consecutive terms. A member may be removed by the governor for incompetence or improper conduct. The chiropractors shall be United States citizens and shall have been residents of this state for one year and shall have practiced chiropractic continuously for a period of at least two years prior to such appointment. No person shall be appointed to the state board of chiropractic examiners who practices any other method of healing than chiropractic as defined in this chapter. The president of the Missouri State Chiropractors Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five chiropractors qualified and

willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Chiropractors Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

332.072. GRATUITOUS DENTAL SERVICES, DENTISTS AND DENTAL HYGIENISTS LICENSED IN OTHER STATES MAY PERFORM, WHEN — PROHIBITED, WHEN — DENTAL HYGIENE SERVICES, SUPERVISION REQUIRED, WHEN. — Notwithstanding any other provision of law to the contrary, any qualified dentist who is legally authorized to practice pursuant to the laws of another state may practice as a dentist in this state without examination by the board or payment of any fee and any qualified dental hygienist who is a graduate of an accredited dental hygiene school and legally authorized to practice pursuant to the laws of another state may practice as a dental hygienist in this state without examination by the board or payment of any fee, if such dental or dental hygiene practice consists solely of the provision of gratuitous dental or dental hygiene services provided for [a summer camp for] a period of not more than fourteen days in any one calendar year. Dentists and dental hygienists who are currently licensed in other states and have been refused licensure by the state of Missouri or previously been licensed by the state, but are no longer licensed due to suspension or revocation shall not be allowed to provide gratuitous dental services within the state of Missouri. Any dental hygiene services provided pursuant to this section shall be performed under the supervision of a dentist providing dental services pursuant to this section or a dentist licensed to practice dentistry in Missouri.

332.086. ADVISORY COMMISSION FOR DENTAL HYGIENISTS ESTABLISHED, DUTIES, MEMBERS, TERMS, MEETINGS, EXPENSES. — **1.** There is hereby established a five- member "Advisory Commission for Dental Hygienists", composed of dental hygienists appointed by the governor as provided in subsection 2 of this section and the dental hygienist member of the Missouri dental board, which shall guide, advise and make recommendations to the Missouri dental board. The commission shall:

- (1) Recommend the educational requirements to be registered as a dental hygienist;
- (2) Annually review the practice act of dental hygiene;
- (3) Make recommendations to the Missouri dental board regarding the practice, licensure, examination and discipline of dental hygienists; and
- (4) Assist the board in any other way necessary to carry out the provisions of this chapter as they relate to dental hygienists.

2. The members of the commission shall be appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of Missouri for one year and shall be a dental hygienist registered and currently licensed pursuant to this chapter. Members of the commission who are not also members of the Missouri dental board shall be appointed for terms of five years, except for the members first appointed, one of which shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. The dental hygienist member of the Missouri dental board shall become a member of the commission

and shall serve a term concurrent with the member's term on the dental board. All members of the initial commission shall be appointed by April 1, 2002. Members shall be chosen from lists submitted by the director of the division of professional registration. Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists Association.

3. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The commission shall meet in conjunction with the dental board meetings or no more than fourteen days prior to regularly scheduled dental board meetings. Additional meetings shall require a majority vote of the commission. A quorum of the commission shall consist of a majority of its members.

4. Members of the commission shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties on the commission and in attending meetings of the Missouri dental board. The Missouri dental board shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission.

332.311. DENTAL HYGIENIST TO PRACTICE UNDER DENTIST SUPERVISION ONLY — NO SUPERVISION REQUIRED FOR FLUORIDE TREATMENTS, TEETH CLEANING AND SEALANTS. —

1. Except as provided in subsection 2 of this section, a duly registered and currently licensed dental hygienist may only practice as a dental hygienist so long as the dental hygienist is employed by a dentist who is duly registered and currently licensed in Missouri, or as an employee of such other person or entity approved by the board in accordance with rules promulgated by the board. In accordance with this chapter and the rules promulgated by the board pursuant thereto, a dental hygienist shall only practice under the supervision of a dentist who is duly registered and currently licensed in Missouri, **except as provided in subsection 2 of this section.**

2. A duly registered and currently licensed dental hygienist who has been in practice at least three years and who is practicing in a public health setting may provide fluoride treatments, teeth cleaning and sealants, if appropriate, to children who are eligible for medical assistance, pursuant to chapter 208, RSMo, without the supervision of a dentist. Medicaid shall reimburse any eligible provider who provides fluoride treatments, teeth cleaning, and sealants to eligible children. Those public health settings in which a dental hygienist may practice without the supervision of a dentist shall be established jointly by the department of health and by the Missouri dental board by rule. This provision shall expire on August 28, 2006.

332.324. DONATED DENTAL SERVICES PROGRAM ESTABLISHED — CONTRACT WITH MISSOURIDENTAL BOARD, CONTENTS. — 1. The department of health may contract with the Missouri dental board to establish a donated dental services program, in conjunction with the provisions of section 332.323, through which volunteer dentists, licensed by the state pursuant to this chapter, will provide comprehensive dental care for needy, disabled, elderly and medically-compromised individuals. Eligible individuals may be treated by the volunteer dentists in their private offices. Eligible individuals may not be required to pay any fees or costs, except for dental laboratory costs.

2. The department of health shall contract with the Missouri dental board, its designee or other qualified organizations experienced in providing similar services or programs, to administer the program.

3. The contract shall specify the responsibilities of the administering organization which may include:

(1) The establishment of a network of volunteer dentists including dental specialists, volunteer dental laboratories and other appropriate volunteer professionals to donate dental services to eligible individuals;

(2) The establishment of a system to refer eligible individuals to appropriate volunteers;

(3) The development and implementation of a public awareness campaign to educate eligible individuals about the availability of the program;

(4) Providing appropriate administrative and technical support to the program;

(5) Submitting an annual report to the department that:

(a) Accounts for all program funds;

(b) Reports the number of individuals served by the program and the number of dentists and dental laboratories participating as providers in the program; and

(c) Reports any other information required by the department;

(6) Performing, as required by the department, any other duty relating to the program.

4. The department shall promulgate rules, pursuant to chapter 536, RSMo, for the implementation of this program and for the determination of eligible individuals. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

334.021. REFERENCE TO TERMS IN PRIOR LAWS, HOW CONSTRUED — NO HIRING DISCRIMINATION PERMITTED BASED ON MEDICAL DEGREE HELD. — 1. Where other statutes of this state use the terms "physician", "surgeon", "practitioner of medicine", "practitioner of osteopathy", "board of medical examiners", or "board of osteopathic registration and examination" or similar terms, they shall be construed to mean physicians and surgeons licensed under this chapter or the state board of registration for the healing arts in the state of Missouri.

2. With the exception of section 197.700, RSMo, notwithstanding any other provision of law, no health facility, health benefit plan, managed care plan, or health carrier shall discriminate with respect to employment, staff, privileges, or the provision of professional services against a physician licensed to practice the healing arts in this state on the basis of whether the physician holds a "medical doctor", "M.D." or "doctor of osteopathy", "D.O." degree.

3. Any reference in an executive order, an administrative regulation, or in the Missouri revised statutes to "medical doctor", "M.D.", or "physician" shall be deemed to include a "doctor of osteopathy" or "D.O." unless any of those terms are specifically excluded by reference to this section. Similarly, any reference to an "osteopath", "D.O." or "physician" shall be deemed to include a "medical doctor" or "M.D.", unless any of those terms are specifically excluded by reference to this section. Similarly, any reference to a specialist shall be deemed to include those specialists accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association unless specifically excluded by reference to this section.

4. The provisions of subsection 3 of this section do not apply to the makeup of boards and commissions on which an unequal number of medical doctors or osteopaths serve.

334.047. LICENSE TO SHOW DEGREE HELD BY LICENSEE — USE ON STATIONERY AND DISPLAYS REQUIRED. — 1. On the licenses issued by the board, the board shall enter after the

name of the licensee the degree to which the licensee is entitled by reason of his diploma of graduation from a professional school approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education or approved and accredited as reputable by the American Osteopathic Association.

2. A licensee under this chapter shall, in any letter, business card, advertisement, prescription blank[,] or sign, [or public listing or display of any nature whatsoever,] designate the degree to which he is entitled by reason of his diploma of graduation from a professional school approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education or approved and accredited as reputable by the American Osteopathic Association.

3. On licenses issued by the board to foreign trained licensees, the board may enter the degree to which the licensee is entitled based upon the nature of the licensee's education and training and the licensee shall, in any writing or display, so designate this degree.

334.625. ADVISORY COMMISSION FOR PHYSICAL THERAPISTS CREATED — POWERS AND DUTIES — APPOINTMENT — TERMS — EXPENSES — COMPENSATION — STAFF — MEETINGS — QUORUM. — 1. There is hereby established an "Advisory Commission for Physical Therapists" which shall guide, advise and make recommendations to the board. The commission shall approve the examination required by section 334.530 and shall assist the board in carrying out the provisions of sections 334.500 to 334.620.

2. The commission shall be appointed no later than October 1, 1989, and shall consist of five members appointed by the governor with the advice and consent of the senate. Each member shall be a citizen of the United States and a resident of this state, and shall be licensed as a physical therapist by this state. Members shall be appointed to serve three-year terms, except that the first commission appointed shall consist of one member whose term shall be for one year; two members whose terms shall be for three years; and two members whose terms shall be for two years. The president of the Missouri Physical Therapy Association in office at the time shall, at least ninety days prior to the expiration of the term of a commission member or as soon as feasible after a vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five physical therapists qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Physical Therapy Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. [No member of the commission shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] **Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment.** All staff for the commission shall be provided by the board of healing arts.

4. The commission shall hold an annual meeting at which it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least ten days prior to the date of the meeting. A quorum of the board shall consist of a majority of its members.

334.720. COMPENSATION OF BOARD MEMBERS. — **Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division of professional**

registration not to exceed seventy dollars per day for board business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment.

334.749. ADVISORY COMMISSION FOR PHYSICIAN ASSISTANTS, ESTABLISHED, RESPONSIBILITIES — APPOINTMENTS TO COMMISSION, MEMBERS — COMPENSATION — ANNUAL MEETING, ELECTIONS. — 1. There is hereby established an "Advisory Commission for Physician Assistants" which shall guide, advise and make recommendations to the board. The commission shall also be responsible for the ongoing examination of the scope of practice and promoting the continuing role of physician assistants in the delivery of health care services. The commission shall assist the board in carrying out the provisions of sections 334.735 to 334.749.

2. The commission shall be appointed no later than October 1, 1996, and shall consist of five members, one member of the board, two licensed physician assistants, one physician and one lay member. The two licensed physician assistant members, the physician member and the lay member shall be appointed by the governor with the advice and consent of the senate. Each licensed physician assistant member shall be a citizen of the United States and a resident of this state, and shall be licensed as a physician assistant by this state. The physician member shall be a United States citizen, a resident of this state, have an active Missouri license to practice medicine in this state and shall be a supervising physician, at the time of appointment, to a licensed physician assistant. The lay member shall be a United States citizen and a resident of this state. The licensed physician assistant members shall be appointed to serve three-year terms, except that the first commission appointed shall consist of one member whose term shall be for one year and one member whose term shall be for two years. The physician member and lay member shall each be appointed to serve a three-year term. No physician assistant member nor the physician member shall be appointed for more than two consecutive three-year terms. The president of the Missouri Academy of Physicians Assistants in office at the time shall, at least ninety days prior to the expiration of a term of a physician assistant member of a commission member or as soon as feasible after such a vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five physician assistants qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Academy of Physicians Assistants shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. [No member of the commission shall be entitled to any compensation for the performance of his or her official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties.] **Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment.** All staff for the commission shall be provided by the state board of registration for the healing arts.

4. The commission shall hold an open annual meeting at which time it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least ten days prior to the date of the meeting. A quorum of the commission shall consist of a majority of its members.

5. On August 28, 1998, all members of the advisory commission for registered physician assistants shall become members of the advisory commission for physician assistants and their successor shall be appointed in the same manner and at the time their terms would have expired as members of the advisory commission for registered physician assistants.

334.870. LICENSING REQUIREMENTS, BACKGROUND CHECKS. — An applicant for a license to practice respiratory care may be issued a license which is valid until the expiration date as determined by the board after the following requirements have been met:

- (1) The applicant submits to the board:
 - (a) A completed application for licensure;
 - (b) Written evidence of:
 - a. Credentials from the certifying entity; or
 - b. Current licensure or registration as a respiratory care practitioner in another state, the District of Columbia or territory of the United States which requires standards for licensure or registration determined by the board to be equivalent to, or exceed, the requirements for licensure under sections 334.800 to 334.930;
 - (c) Payment of any required fees;
- (2) The board requests and receives a complete background check and other information as may be deemed necessary to fulfill sections 334.800 to 334.910[.];

(3) An applicant who has completed the requirements of subdivision (1) of this section and has submitted the necessary information for the background check pursuant to subdivision (2) of this section may obtain a conditional license to practice as a respiratory care practitioner pending the outcome of the background check subject to the following restrictions:

- (a) The conditional license shall only be issued if the applicant has made a prima facie showing that he or she meets all of the requirements for full licensure;**
- (b) The conditional license shall only be effective until the board has had an opportunity to investigate the applicant's qualifications for licensure pursuant to subdivisions (1) and (2) of this section and to notify the applicant that his or her application for licensure has been granted or denied;**
- (c) If the applicant provides false or misleading information to the board, the board may automatically terminate the conditional license. If the board automatically terminates a conditional license, the board shall notify the holder of the board's decision by certified mail or personal service;**
- (d) In no event shall such conditional license be in effect for more than twelve months after the date of its issuance;**
- (e) A conditional license shall not be eligible for renewal; and**
- (f) No fee shall be charged for issuing a conditional license.**

334.880. LICENSE RENEWAL — INACTIVE STATUS. — 1. A license issued pursuant to sections 334.800 to 334.930 shall be renewed biennially, except as provided in sections 334.800 to 334.930. The board shall mail a notice to each person licensed during the preceding licensing period at least thirty calendar days prior to the expiration date of the license. The board shall not renew any license unless the licensee shall provide satisfactory evidence of having complied with the board's minimum requirements for continuing education.

2. [A respiratory care practitioner may choose not to renew such person's license and allow such practitioner's licensure to lapse, or may ask to be put on inactive status, provided such person does not practice respiratory care during such period that the licensure is lapsed or the practitioner is on inactive status. If after sixty days a person with a lapsed license desires to resume the practice of respiratory care, the person shall apply for licensure under the licensing requirements in effect at the time the person applies to resume the practice of respiratory care and pay the required fee as established by the board. If the person wants to maintain such person's licensure on an inactive status and in order to avoid lapsing of such license, the person shall maintain continuing education and pay the required fee as established by the board for maintaining an inactive license.] **Failure of a licensee to renew his or her license prior to the expiration of the license shall result in the lapse of the license. A lapsed license may be reinstated by the board as provided by rule.**

3. Each licensee may, in lieu of submitting proof of the completion of the required continuing education course, apply for an inactive license at the time of renewal and pay the required inactive fee. An inactive license shall be renewed biennially. An inactive license may be reactivated by the board as provided by rule.

4. Any person who practices as a respiratory care practitioner during the time his or her license is inactive or lapsed shall be considered an illegal practitioner and shall be subject to the penalties for violation of the respiratory care practice act.

334.890. SIX-MONTH EDUCATION PERMIT, REQUIREMENTS — SUPERVISION REQUIRED, WHEN — CONDITIONAL PERMIT ISSUED, WHEN. — 1. If an applicant submits an application, pays the required fees and provides documentation that the [person] **applicant** is enrolled in a nationally accredited respiratory care educational program and the board completes a background check, an applicant may be issued [a temporary] **an educational** permit to practice respiratory care [for a period] during the applicant's course of study and up to a period of [eighteen] **six** months after the date the applicant graduates from the program. If the holder of [a temporary] **an educational** permit issued pursuant to this [subsection] **section** discontinues coursework in the program prior to graduation, such holder's [temporary] **educational** permit shall be automatically revoked.

2. If an applicant graduates from a nationally accredited respiratory care educational program but does not obtain an educational permit during his or her course of study, then upon graduation the applicant may apply to the board for a temporary permit. If an applicant submits an application to the board, pays the required fees and the board completes a background check, the board may issue a one-time temporary permit to practice respiratory care for a period of six months from the date the applicant graduated from a nationally accredited respiratory care educational program. Temporary permits issued to applicants pursuant to this section shall automatically expire six months after the date the applicant graduated from a nationally accredited respiratory care education program or upon issuance or denial of a respiratory care practitioner license by the board, whichever first occurs.

3. If an applicant submits an application to the board, pays the required fees and the board completes a background check, the board may issue a one-time temporary permit to practice respiratory care for a period of [eighteen] **six** months from the date the [person applies] **temporary permit is issued by the board**. Such temporary permit shall [terminate] **automatically expire** at the end of the [eighteen-month] **six-month** period[, or at the time the holder of such temporary permit applies for a temporary educational permit issued pursuant to subsection 1 of this section] **or upon issuance of a denial of a respiratory care practitioner license by the board, whichever first occurs**. The board may issue the temporary permit provided by this [subsection] **section** if the applicant:

(1) [The applicant submits an application to the board and pays the required fees and:
(a)] Is a veteran of the United States military services and such applicant has a minimum of six months respiratory care experience **during the previous eighteen months** as a member of the military and such experience is verified; or

[(b)] Such applicant has been performing the duties of a respiratory care practitioner in this state, any other state, the District of Columbia or territory of the United States, as defined in section 334.800, for the previous twelve months; or

(c) Is a graduate of a nationally accredited respiratory care educational program; and

(2) The board completes a background check.

3.] (2) **Is duly licensed as a respiratory care practitioner pursuant to the laws of another state, the District of Columbia or territory of the United States, and submits an application for licensure as a respiratory care practitioner in this state.**

4. The holder of **an educational** or a temporary permit [as provided by this section to practice respiratory care in this state] may only perform and provide such services of a respiratory

care practitioner, as defined in section 334.800, under the direct clinical supervision of a person licensed as a respiratory care practitioner **in this state as set forth by rule**. The holder of a current and valid **educational permit or temporary permit** [issued pursuant to this section,] may not **represent himself or herself as a respiratory care practitioner**, use the title [or term of] respiratory care practitioner or use the abbreviation [of] "R.C.P.". Any holder of **an educational permit or a temporary permit** [issued pursuant to this section] shall show such permit upon request.

5. An applicant who completes the requirements of subsections 1 to 3 of this section and submits the necessary information for the background check required by this section may obtain a conditional permit to practice respiratory care in accordance with the provisions of sections 334.800 to 334.910 pending the outcome of the background check subject to the following restrictions:

(1) The conditional permit shall only be issued if the applicant has made a prima facie showing that he or she meets all of the requirements for an educational permit or temporary permit;

(2) The conditional permit shall only be effective until the board has had an opportunity to investigate the applicant's qualifications to hold a permit pursuant to subsections 1 to 3 of this section and to notify the applicant that his or her application for an educational or temporary permit has been granted or denied;

(3) If the applicant provides false or misleading information to the board, the board may automatically terminate the conditional permit. If the board automatically terminates a conditional permit, the board shall notify the holder of the board's decision by certified mail or personal service;

(4) In no event shall such conditional permit be in effect for more than twelve months after the date of its issuance;

(5) A conditional permit shall not be renewed; and

(6) No fee shall be charged for issuing a conditional permit.

337.612. APPLICATIONS, CONTENTS, FEE — FUND ESTABLISHED — RENEWAL, FEE — LOST CERTIFICATE, HOW REPLACED. — 1. Applications for licensure as a clinical social worker shall be in writing, submitted to the committee on forms prescribed by the committee and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The committee shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for licensure, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a fee.

4. The committee shall set the amount of the fees which sections 337.600 to 337.639 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.600 to 337.639. All fees provided for in sections 337.600 to 337.639 shall be collected by the director who shall deposit the same with the state treasurer in a fund to be known as the "Clinical Social Workers Fund".

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the clinical social workers fund for the preceding fiscal year **or, if the committee requires by rule renewal less frequently than yearly, then three times the appropriation from the committee's fund for the preceding fiscal year.** The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the clinical social workers fund for the preceding fiscal year.

337.615. EDUCATION, EXPERIENCE REQUIREMENTS — RECIPROCITY. — 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has twenty-four months of supervised clinical experience acceptable to the committee, as defined by rule;

(3) **The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;**

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for clinical social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.612.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.639 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to [(3)] (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1) [and], (3) **and (4)** of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.618. LICENSE EXPIRATION, RENEWAL, FEES, CONTINUING EDUCATION REQUIREMENTS. — Each license issued pursuant to the provisions of sections 337.600 to 337.639 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to [this act] **sections 337.600 to 337.639** in accordance with the provisions of subsection 14 of section 620.010, RSMo. **The committee may require a specified number of continuing education units for renewal of a license issued pursuant to sections 337.600 to 337.639.** The committee shall renew any license upon application for a renewal, **completion of any required continuing education** and upon payment of the fee established by the committee pursuant to the provisions of section 337.612.

337.622. STATE COMMITTEE FOR SOCIAL WORKERS — MEMBERSHIP, REMOVAL AND VACANCIES. — 1. There is hereby established the "State Committee for Social Workers", which shall guide, advise, and make recommendations to the division and fulfill other responsibilities

designated by sections 337.600 to 337.649 **and sections 337.650 to 337.689**. The committee shall approve any examination required by sections 337.600 to 337.649 **and sections 337.650 to 337.689** and shall assist the division in carrying out the provisions of sections 337.600 to 337.649 **and sections 337.650 to 337.689**.

2. The committee shall consist of [seven] **nine** members, including a public member appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state. The committee shall consist of six licensed clinical social workers, **two licensed baccalaureate social workers** and one voting public member. At least two committee members shall be involved in the private practice of clinical social work. Any person who is a member of any clinical social worker advisory committee appointed by the director of the division of professional registration shall be eligible for appointment to the state committee for social work on August 28, 1997. The governor shall endeavor to appoint members from different geographic regions of the state and with regard to the pattern of distribution of social workers in the state. The term of office for committee members shall be four years and no committee member shall serve more than ten years. Of the members first appointed, the governor shall appoint [two] **three** members, one of whom shall be the public member, whose terms shall be four years; [two] **three** members whose terms shall be three years; two members whose terms shall be two years; and one member whose term shall be one year. The president of the National Association of Social Workers Missouri Chapter in office at the time shall, at least ninety days prior to the expiration of a term of a member of a **clinical social worker or baccalaureate social worker** committee member[, other than the public member,] or as soon as feasible after a vacancy on the committee otherwise occurs, submit to the director of the division of professional registration a list of five clinical social workers qualified **or five baccalaureate social workers** and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons **in each category** so listed, and with the list so submitted, the president of the National Association of Social Workers Missouri Chapter shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. **Notwithstanding any other provision of law to the contrary, any appointed member of the committee shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for committee business plus** each member of the committee shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. **The director of the division of professional registration shall establish by rule guidelines for payment.** All staff for the committee shall be provided by the division.

5. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its members.

6. The governor may remove a committee member for misconduct, incompetency or neglect of the member's official duties after giving the committee member written notice of the charges against such member and an opportunity to be heard thereon.

7. The public member shall be at the time of such member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 337.600 to 337.649 **or sections 337.650 to 337.689**, or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 337.600 to 337.649 **or sections 337.650 to 337.689**, or an activity or organization directly related to any profession licensed or regulated pursuant to

sections 337.600 to 337.649. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

337.650. DEFINITIONS. — As used in sections 337.650 to 337.689, the following terms mean:

- (1) "Committee", the state committee for social work established in section 337.622;
- (2) "Department", the Missouri department of economic development;
- (3) "Director", the director of the division of professional registration in the department of economic development;
- (4) "Division", the division of professional registration;
- (5) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;
- (6) "Practice of baccalaureate social work", rendering, offering to render or supervising those who render to individuals, families, groups, organizations, institutions, corporations or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;
- (7) "Provisional licensed baccalaureate social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed baccalaureate social worker, other than the supervised baccalaureate social work experience prescribed by subdivision (3) of subsection 1 of section 337.665, and who is supervised by a licensed clinical social worker or a licensed baccalaureate social worker, as defined by rule.

337.653. BACCALAUREATE SOCIAL WORKERS, LICENSE REQUIRED, PERMITTED ACTIVITIES. — 1. No person shall use the title of "licensed baccalaureate social worker", or "provisional licensed baccalaureate social worker" and engage in the practice of baccalaureate social work in this state unless the person is licensed as required by the provisions of sections 337.650 to 337.689.

2. A licensed baccalaureate social worker may:

- (1) Engage in psychosocial assessment and evaluation, excluding the diagnosis and treatment of mental illness and emotional disorders;
- (2) Conduct basic data gathering of records and social problems of individuals, groups, families and communities, assess such data, and formulate and implement a plan to achieve specific goals;
- (3) Serve as an advocate for clients, families, groups or communities for the purpose of achieving specific goals;
- (4) Counsel, excluding psychotherapy;
- (5) Perform crisis intervention, screening and resolution, excluding the use of psychotherapeutic techniques;
- (6) Be a community supporter, organizer, planner or administrator for a social service program;
- (7) Conduct crisis planning ranging from disaster relief planning for communities to helping individuals prepare for the death or disability of family members;
- (8) Inform and refer clients to other professional services;
- (9) Perform case management and outreach, including but not limited to planning, managing, directing or coordinating social services; and

(10) Engage in the training and education of social work students from an accredited institution and supervise other licensed baccalaureate social workers.

3. A licensed baccalaureate social worker shall not engage in the private practice of clinical social work.

337.659. NO EMPLOYER REQUIRED TO EMPLOY LICENSED SOCIAL WORKERS. — No provision of sections 337.650 to 337.689 shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed baccalaureate social workers.

337.662. APPLICATION FOR LICENSURE, CONTENTS — RENEWAL NOTICES — REPLACEMENT CERTIFICATES PROVIDED, WHEN — FEES SET BY COMMITTEE. — 1. Applications for licensure as a baccalaureate social worker shall be in writing, submitted to the committee on forms prescribed by the committee and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The committee shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for licensure, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a fee.

4. The committee shall set the amount of the fees which sections 337.650 to 337.689 authorize and require by rules and regulations promulgated pursuant to chapter 536, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.650 to 337.689. All fees provided for in sections 337.650 to 337.689 shall be collected by the director who shall deposit the same with the state treasurer in the clinical social workers fund established in section 337.612.

337.665. INFORMATION REQUIRED TO BE FURNISHED COMMITTEE — RECIPROCITY, WHEN — LICENSE ISSUED, WHEN. — 1. Each applicant for licensure as a baccalaureate social worker shall furnish evidence to the committee that:

(1) The applicant has a baccalaureate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social work;

(3) The applicant has completed three thousand hours of supervised baccalaureate experience with a licensed clinical social worker or licensed baccalaureate social worker in no less than twenty-four and no more than forty-eight consecutive calendar months;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure;

(5) The applicant has submitted a written application on forms prescribed by the state board;

(6) The applicant has submitted the required licensing fee, as determined by the division.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure pursuant to section 337.680 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for baccalaureate social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.662.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.650 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a one-time provisional baccalaureate social worker license to any applicant who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this section, but who has not completed the supervised baccalaureate experience required by subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a baccalaureate social worker upon completion of the supervised baccalaureate experience.

337.668. TERM OF LICENSE — RENEWAL. — The term of each license issued pursuant to the provisions of sections 337.650 to 337.689 shall be no less than twenty-four and no more than forty-eight consecutive calendar months. All licensees shall annually complete fifteen hours of continuing education units. The committee shall renew any license, other than a provisional license, upon application for a renewal, submission of documentation of the completion of the required annual hours of continuing education and payment of the fee established by the committee pursuant to the provisions of section 337.662.

337.671. TEMPORARY PERMITS ISSUED, WHEN. — The committee may issue temporary permits to practice under extenuating circumstances as determined by the committee and defined by rule.

337.674. NO MANDATORY THIRD-PARTY REIMBURSEMENT FOR SERVICES. — No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.

337.677. RULEMAKING AUTHORITY. — 1. The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.650 to 337.689 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.650 to 337.689;

(3) The characteristics of "supervised baccalaureate experience" as that term is used in section 337.665;

(4) The standards and methods to be used in assessing competency as a licensed baccalaureate social worker, including the requirement for annual continuing education units;

(5) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.650 to 337.689;

(6) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing pursuant to the constitution or laws of this state;

(7) Establishment of a policy and procedure for reciprocity with other states, including states which do not have baccalaureate or clinical social worker licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(8) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.650 to 337.689.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 337.650 to 337.689 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

337.680. REFUSAL TO ISSUE OR RENEW LICENSE, WHEN — COMPLAINT PROCEDURE.
— 1. The committee may refuse to issue or renew any license required by the provisions of sections 337.650 to 337.689 for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.650 to 337.689 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of baccalaureate social work; except that the fact that a person has undergone treatment for past substance or alcohol abuse and/or has participated in a recovery program, shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a baccalaureate social worker; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.650 to 337.689 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.650 to 337.689;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a baccalaureate social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.650 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.650 to 337.689;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice baccalaureate social work granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice baccalaureate social work who is not licensed and currently eligible to practice pursuant to the provisions of sections 337.650 to 337.689;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.650 to 337.689 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct based on the code of ethics of the National Association of Social Workers.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 337.650 to 337.689 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

337.683. VIOLATIONS, PENALTY — COMMITTEE MAY SUE, WHEN — ACTIONS PERMITTED TO BE ENJOINED. — 1. Violation of any provision of sections 337.650 to 337.689 shall be a class B misdemeanor.

2. All fees or other compensation received for services which are rendered in violation of sections 337.650 to 337.689 shall be refunded.

3. The department on behalf of the committee may sue in its own name in any court in this state. The department shall inquire as to any violations of sections 337.650 to 337.689, may institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 337.650 to 337.689.

4. Upon application by the committee, the attorney general may on behalf of the committee request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.650 to 337.689 upon a showing

that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought pursuant to this section may be in addition to or in lieu of any penalty provided by sections 337.650 to 337.689 and may be brought concurrently with other actions to enforce the provisions of sections 337.650 to 337.689.

337.686. CONFIDENTIALITY REQUIREMENTS, EXCEPTIONS. — Persons licensed pursuant to the provisions of sections 337.650 to 337.689 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.

337.689. LICENSEES MAY BE COMPELLED TO TESTIFY. — Nothing in sections 337.650 to 337.689 shall be construed to prohibit any person licensed pursuant to the provisions of sections 337.650 to 337.689 from testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of children or any dependent person, or from seeking collaboration or consultation with professional colleagues or administrative supervisors on behalf of the client.

338.030. APPLICANT — REQUIREMENTS FOR QUALIFICATION. — An applicant for examination shall be twenty-one years of age and in addition shall furnish satisfactory evidence of his good moral character and [a certificate of graduation from an accredited high school or its equivalent,] have had one year practical experience under the supervision of a licensed pharmacist within a licensed pharmacy, or other location approved by the board, and shall be a graduate of a school or college of pharmacy whose requirements for graduation are satisfactory to and approved by the board of pharmacy.

338.043. TEMPORARY LICENSE — ELIGIBILITY — RENEWAL. — 1. Notwithstanding any provision of law to the contrary, the board of pharmacy may grant a temporary license to an applicant who meets such requirements as the board may prescribe by rule and regulation.

2. [The temporary license provided in subsection 1 of this section shall limit the right of the licensee to practice only in locations approved by the board under the supervision of a pharmacist licensed to practice pharmacy in this state.

3.] The license shall be renewable at the discretion of and with the approval of the board of pharmacy. A temporary license fee shall accompany the original application for a temporary license and a similar amount shall be paid in the event the temporary license is renewed.

338.055. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, GROUNDS FOR — EXPEDITED PROCEDURE — ADDITIONAL DISCIPLINE AUTHORIZED, WHEN. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of the drug laws or rules and [regulation] **regulations** of this state, any other state or the federal government;

(16) The intentional act of substituting or otherwise changing the content, formula or brand of any drug prescribed by written or oral prescription without prior written or oral approval from the prescriber for the respective change in each prescription; provided, however, that nothing

contained herein shall prohibit a pharmacist from substituting or changing the brand of any drug as provided under section 338.056, and any such substituting or changing of the brand of any drug as provided for in section 338.056 shall not be deemed unprofessional or dishonorable conduct unless a violation of section 338.056 occurs;

(17) Personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by a health care provider who is authorized by law to do so.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit. The board may impose additional discipline on a licensee, registrant or permittee found to have violated any disciplinary terms previously imposed under this section or by agreement. The additional discipline may include, singly or in combination, censure, placing the licensee, registrant or permittee named in the complaint on additional probation on such terms and conditions as the board deems appropriate, which additional probation shall not exceed five years, or suspension for a period not to exceed three years, or revocation of the license, certificate or permit.

4. If the board concludes that a pharmacist has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the pharmacist's license. Within fifteen days after service of the complaint on the pharmacist, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the pharmacist appear to constitute a clear and present danger to the public health and safety which justify that the pharmacist's license be immediately restricted or suspended. The burden of proving that a pharmacist is a clear and present danger to the public health and safety shall be upon the state board of pharmacy. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the pharmacist's license, such temporary authority of the board shall become final authority if there is no request by the pharmacist for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the pharmacist named in the complaint, set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board.

6. If the administrative hearing commission dismisses the action filed by the board pursuant to subsection 4 of this section, such dismissal shall not bar the board from initiating a subsequent action on the same grounds.

338.210. PHARMACY DEFINED — PRACTICE OF PHARMACY TO BE CONDUCTED AT PHARMACY LOCATION — RULEMAKING AUTHORITY. — [As used in sections 338.210 to 338.300 "pharmacy" shall mean any pharmacy, drug, chemical store, or apothecary shop, conducted for the purpose of compounding, and dispensing or retailing of any drug, medicine, chemical or poison when used in the compounding of a physician's prescription.] **1. Pharmacy refers to any location where the practice of pharmacy occurs or such activities are offered or provided by a pharmacist or another acting under the supervision and authority of a pharmacist, including every premises or other place:**

(1) Where the practice of pharmacy is offered or conducted;

(2) Where drugs, chemicals, medicines, prescriptions, or poisons are compounded, prepared, dispensed or sold or offered for sale at retail;

(3) Where the words "pharmacist", "apothecary", "drugstore", "drugs", and any other symbols, words or phrases of similar meaning or understanding are used in any form to advertise retail products or services;

(4) Where patient records or other information is maintained for the purpose of engaging or offering to engage in the practice of pharmacy or to comply with any relevant laws regulating the acquisition, possession, handling, transfer, sale or destruction of drugs, chemicals, medicines, prescriptions or poisons.

2. All activity or conduct involving the practice of pharmacy as it relates to an identifiable prescription or drug order shall occur at the pharmacy location where such identifiable prescription or drug order is first presented by the patient or the patient's authorized agent for preparation or dispensing, unless otherwise expressly authorized by the board.

3. The requirements set forth in subsection 2 of this section shall not be construed to bar the complete transfer of an identifiable prescription or drug order pursuant to a verbal request by or the written consent of the patient or the patient's authorized agent.

4. The board is hereby authorized to enact rules waiving the requirements of subsection 2 of this section and establishing such terms and conditions as it deems necessary, whereby any activities related to the preparation, dispensing or recording of an identifiable prescription or drug order may be shared between separately licensed facilities.

5. If a violation of this chapter or other relevant law occurs in connection with or adjunct to the preparation or dispensing of a prescription or drug order, any permit holder or pharmacist-in-charge at any facility participating in the preparation, dispensing, or distribution of a prescription or drug order may be deemed liable for such violation.

6. Nothing in this section shall be construed to supersede the provisions of section 197.100, RSMo.

338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT. — 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate or maintain any pharmacy, as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. The following classes of pharmacy permits or licenses are hereby established:

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital outpatient pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: Home health care;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;
- (9) Class I: Consultant services;
- (10) Class J: Shared service.**

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

338.285. BOARD MAY FILE COMPLAINT, WHEN, WHERE FILED. — The board is hereby authorized and empowered, when examination or inspection of a pharmacy shall disclose to the board that the pharmacy is not being operated or conducted according to such legal rules and regulations and the laws of Missouri with respect thereto, to cause a complaint to be filed before the administrative hearing commission pursuant to chapter 621, RSMo, charging the holder of a permit to operate a pharmacy with conduct constituting grounds for [suspension or revocation of his permit] **discipline in accordance with section 338.055.**

338.353. DISCIPLINE OF LICENSEE, GROUNDS — PROCEDURE — ADMINISTRATIVE HEARING COMMISSION TO CONDUCT HEARING. — 1. The board of pharmacy is hereby authorized and empowered, when complaints, examinations or inspection of a wholesale drug distributor or pharmacy distributor disclose to the board that a wholesale drug distributorship or pharmacy distributorship is not being operated or conducted according to such legal rules and regulations and the laws of Missouri or any other state or the federal government with respect thereto, to cause a complaint to be filed before the administrative hearing commission pursuant to chapter 621, RSMo, charging the holder of a license to operate a drug distributorship or pharmacy wholesale operation constituting grounds for [probation, suspension or revocation of the distributor license] **discipline in accordance with section 338.055.**

2. If the board concludes that a wholesale drug distributor or pharmacy distributor has committed an act or is engaging in a course of conduct which constitutes a clear and present danger to the public health and safety in Missouri, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the wholesale drug distributor's or pharmacy distributor's license. Within fifteen days after service of the complaint on a wholesale drug distributor or pharmacy distributor, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the wholesale drug distributor or pharmacy distributor appear to constitute a clear and present danger to the public health and safety which justify that the wholesale drug distributor's or pharmacy distributor's license be immediately restricted or suspended. The burden of proving that a wholesale drug distributor or pharmacy distributor is a clear and present danger to the public health and safety shall be upon the state board of pharmacy. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

3. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the wholesale drug distributor's or pharmacy distributor's license, such temporary authority of the board shall become final authority if there is no request by the wholesale drug distributor or pharmacy distributor for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the wholesale drug distributor or pharmacy distributor named in the complaint, set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board.

4. If the administrative hearing commission dismisses the action filed by the board pursuant to subsection 2 of this section, such dismissal shall not bar the board from initiating a subsequent action on the same grounds.

339.090. LICENSE OF NONRESIDENT — FEE — RECIPROCITY — RULEMAKING AUTHORITY. — The commission may prescribe necessary rules and regulations pursuant to chapter 536, RSMo, to provide for the licensure of nonresidents. Such rules shall require the nonresident to pay a fee [equal to the fee a Missouri resident would have to pay in the nonresident's state, for licensure in that state,] and may provide for licensure without examination if such reciprocity is extended to Missouri residents. **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

345.080. ADVISORY COMMISSION FOR SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS ESTABLISHED — MEMBERS — TERMS — APPOINTMENT — DUTIES — REMOVAL — EXPENSES — COMPENSATION — MEETINGS, NOTICE OF — QUORUM — STAFF. — 1. There is hereby established an "Advisory Commission for Speech-Language Pathologists and Audiologists" which shall guide, advise and make recommendations to the board. The commission shall approve the examination required by section 345.050, and shall assist the board in carrying out the provisions of sections 345.010 to 345.075.

2. After August 28, 1997, the commission shall consist of seven members, one of whom shall be a voting public member, appointed by the board of registration for the healing arts. Each member shall be a citizen of the United States and a resident of this state. Three members of the commission shall be licensed speech-language pathologists and three members of the commission shall be licensed audiologists. The public member shall be at the time of appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 345.010 to 345.080 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 345.010 to 345.080, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 345.010 to 345.080. Members shall be appointed to serve three-year terms, except as provided in this subsection. Each member of the advisory commission for speech pathologists and clinical audiologists on August 28, 1995, shall become a member of the advisory commission for speech-language pathologists and clinical audiologists and shall continue to serve until the term for which the member was appointed expires. Each member of the advisory commission for speech-language pathologists and clinical audiologists on August 28, 1997, shall become a member of the advisory commission for speech-language pathologists and audiologists and shall continue to serve until the term for which the member was appointed expires. The first public member appointed pursuant to this subsection shall be appointed for a two-year term and the one additional member appointed pursuant to this subsection shall be appointed for a full three-year term. No person shall be eligible for reappointment who has served as a member of the advisory commission for speech pathologists and audiologists or as a member of the commission as established on August 28, 1995, for a total of six years. The membership of the commission shall reflect the differences in levels of education, work experience and geographic residence. The president of the Missouri Speech, Hearing and Language Association in office at the time shall, at least ninety days prior to the expiration of a term of a member of a commission member, other than the public member, or as soon as feasible after a vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five persons qualified and willing to fill the vacancy in question, with the request and recommendation that

the board of registration for the healing arts appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Speech, Hearing and Language Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. [No member of the commission shall be entitled to any compensation for the performance of the member's official duties, but each shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] **Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment.** All staff for the commission shall be provided by the board of registration for the healing arts.

4. The commission shall hold an annual meeting at which it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least ten days prior to the date of the meeting. A quorum of the commission shall consist of a majority of its members.

5. The board of registration for the healing arts may remove a commission member for misconduct, incompetency or neglect of the member's official duties after giving the member written notice of the charges against such member and an opportunity to be heard thereon.

620.010. DEPARTMENT OF ECONOMIC DEVELOPMENT CREATED — DIVISIONS — AGENCIES — BOARDS AND COMMISSIONS — PERSONNEL — POWERS AND DUTIES — PROFESSIONAL REGISTRATION FEE FUND ESTABLISHED — RULES, PROCEDURE. — 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The office of director of the department of business and administration, chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the department of economic development. The department of business and administration is hereby abolished.

3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are transferred by type I transfer to the personnel division, office of administration.

4. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers, and the state banking board, chapter 361, RSMo, and others, and the savings and loan commission, chapter 369, RSMo, and others, are transferred by type II transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

5. The powers, duties and functions vested in the office of the public counsel are transferred by type III transfer to the department of economic development. Funding for the general counsel's office shall be by general revenue.

6. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

7. There is hereby created a "Division of Credit Unions" in the department of economic development, to be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. All the powers, duties and functions vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties relating to credit unions vested in the commissioner of finance in chapter 370, RSMo, are transferred to the division of credit unions of the department of economic development, by a type II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the director of the division of credit unions shall be set by the director of the department within the limits of the appropriations therefor. The director of the division shall assume all the duties and functions of the state supervisor of credit unions and the commissioner of finance only where the director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

8. The powers, duties and functions vested in the division of finance, chapters 361, 362, 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department of economic development. There shall be a director of the division who shall be nominated by the department director and appointed by the governor with the advice and consent of the senate.

9. All the powers, duties and functions vested in the director of the division of savings and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other provision of law are transferred to the division of finance of the department of economic development by a type I transfer. The position of the director of the division of savings and loan supervision is hereby abolished. The director of the division of finance shall assume all the duties and functions of the director of the division of savings and loan supervision as provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law. The division of savings and loan is hereby abolished. The powers of the savings and loan commission are hereby limited to hearing appeals from decisions of the director of the division of finance approving or denying applications to incorporate savings and loan associations or to establish branches of savings and loan associations and approving regulations pertaining to savings and loan associations. Any appeals shall be held in accordance with section 369.319, RSMo.

10. On and after August 28, 1990, the status of the division is modified under a specific type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of the division is modified from that of a division transferred to the department of economic development pursuant to a type II transfer, as provided for in this section, to that of an agency possessing the characteristics of a division transferred pursuant to a type III transfer; provided, however, that the division will remain within the department of economic development. The division of insurance shall be assigned to the department of economic development as a type III division, and the director of the department of economic development shall have no supervision, authority or control over the actions or decisions of the director of the division. All authority, records, property, personnel, powers, duties, functions, matter pending and all other pertinent vestiges pertaining thereto shall be retained by the division except as modified by this section. If the division of insurance becomes a department by operation of a constitutional amendment, the department of economic development shall continue until December 31, 1991, to provide at least the same assistance as was provided in previous fiscal years for personnel, data processing support and other benefits from appropriations.

11. All the powers, duties and functions of the commerce and industrial development division and the industrial development commission, chapters 184 and 255, RSMo, and others, not otherwise transferred, are transferred by type I transfer to the department of economic development, and the industrial development commission is abolished. All powers, duties and functions of the division of commerce and industrial development and the division of community development are transferred by a type I transfer to the department of economic development, and

the division of commerce and industrial development and the division of community development are abolished.

12. All the powers, duties and functions vested in the tourism commission, chapter 258, RSMo, and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

13. All the powers, duties and functions of the department of community affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

14. (1) There is hereby established a "Division of Professional Registration" assigned to the department of economic development as a type III division, headed by a director appointed by the [director of the department] **governor** with the advice and consent of the senate.

(2) The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. Each board or commission shall issue the original license or certificate.

(3) The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

(4) The director of the division shall establish a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds, moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

(5) For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subdivision (4) of subsection 14 of this section. The fund shall consist

of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subdivision (4) of this subsection. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue.

(6) The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

(7) All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department of economic development are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

(8) Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the department.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and

accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. All clerical and other staff services relating to the issuance and renewal of licenses of the individual boards and commissions are abolished. All clerical and other staff services pertaining to collecting and accounting for moneys and to financial management relative to the issuance and renewal of licenses of the individual boards and commissions are abolished. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of economic development. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

(6) Each board or commission shall receive complaints concerning its licensees' business or professional practices. Each board or commission shall establish by rule a procedure for the handling of such complaints prior to the filing of formal complaints before the administrative hearing commission. The rule shall provide, at a minimum, for the logging of each complaint received, the recording of the licensee's name, the name of the complaining party, the date of the complaint, and a brief statement of the complaint and its ultimate disposition. The rule shall provide for informing the complaining party of the progress of the investigation, the dismissal of the charges or the filing of a complaint before the administrative hearing commission.

16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo, and others, are transferred by type I transfer to the division of professional registration. The athletic commission is abolished.

17. The state council on the arts, chapter 185, RSMo, and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

18. The Missouri housing development commission, chapter 215, RSMo, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

19. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

620.151. CONTROLLED SUBSTANCES, TESTING POSITIVE, EFFECT OF. — For the purpose of determining whether cause for discipline or denial exists under the statutes of any board, commission or committee within the division of professional registration, any licensee, registrant, permittee or applicant that test positive for a controlled substance, as defined in chapter 195, RSMo, is presumed to have unlawfully possessed the controlled substance in violation of the drug laws or rules and regulations of this state, any other state or the federal government unless he or she has a valid prescription for the controlled substance. The burden of proof that the controlled substance was not unlawfully possessed in violation of the drug laws or rules and regulations of this state, any other state or the federal government is upon the licensee, registrant, permittee or applicant.

[324.083. REFUSAL OF A LICENSE OR PERMIT, WHEN — NOTIFICATION OF REFUSAL — FILING OF A COMPLAINT, WHEN, PROCEDURE. — 1. The division, in collaboration with the board, may refuse to issue or renew, suspend or revoke a license or permit, or place a license or permit holder on probation or otherwise reprimand a licensee or permit holder, when the licensee, permit holder or applicant has been found guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare or safety of any person, as provided in sections 324.050 to 324.089 or by any rule or regulation promulgated by the division, in collaboration with the board.

2. If the division, in collaboration with the board, refuses to issue or renew a license or permit, the person shall be notified in writing of the reasons for such refusal and shall advise the person of the person's right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

3. The division, in collaboration with the board, may cause a complaint to be filed concerning a person who is the holder of a license or permit issued pursuant to sections 324.050 to 324.089 or any complaint regarding any professional practice regulated by sections 324.050 to 324.089 shall be recorded as received and the date received. The division, in collaboration with the board:

(1) Shall investigate all complaints concerning alleged violations of the provisions of sections 324.050 to 324.089. Division investigators shall investigate complaints and make inspections and any inquiries as, in the judgment of the division, are appropriate to enforce the provisions of sections 324.050 to 324.089;

(2) May, if the evidence supports such action, cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any license or permit issued pursuant to sections 324.050 to 324.089.]

[326.011. DEFINITIONS. — 1. As used in sections 326.011 to 326.230, the following words mean:

(1) "Attestation", the opinion of a certified public accountant or public accountant as to the reliability or fairness of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public or private, following the completion of an audit, in accordance with generally accepted accounting and auditing standards;

(2) "Board", the Missouri state board of accountancy;

(3) "Live permit", a permit issued pursuant to section 326.210 which has not expired or been revoked or suspended;

(4) "State", the term "state" when used herein includes any state, territory or insular possession of the United States or the District of Columbia.

2. Masculine terms when used herein shall also include the feminine.]

[326.012. TEMPORARY PRACTICE BY CERTIFIED PUBLIC ACCOUNTANTS LICENSED IN OTHER STATES — OTHER EXEMPTED ACTIVITIES. — Nothing contained in sections 326.011 to 326.230 shall prohibit:

(1) A certified public accountant of another state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accountancy in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; except that, such temporary practice shall be conducted in conformity with the laws of Missouri and the regulations and rules of professional conduct promulgated by the board;

(2) Any person from signing, delivering or issuing financial, accounting or related statements or reports thereon prepared by him, or under his supervision, if he in no way indicates, or implies, that he is attesting to such statements or reports; or from preparation of tax returns and schedules relative thereto and representation before appropriate governmental agencies with respect to the tax returns, including the preparation of any schedules required for the representation before such agencies;

(3) Any person not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant or partnership or corporation composed of certified public accountants or public accountants holding a permit to practice issued under section 326.210; provided that such employee or assistant shall not issue any accounting or financial statement over his name;

(4) Any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his duties in such capacity;

(5) Any attorney at law, or partnership of attorneys at law, or professional corporation of attorneys at law from signing a financial, accounting or related statement, or report thereon, prepared by him, or them, as an incident to the practice of law;

(6) A person who holds a certificate as a certified public accountant, then in full force and effect, issued under the laws of this or any other state or foreign country, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title "certified public accountant" or abbreviation "C.P.A.", or in the case of a foreign accountant, the title under which he is generally known in his country;

(7) Any director or officer of a corporation, partner of a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or the courts, or an employee of any of the foregoing, in his capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to such corporation, partnership, business enterprise, joint venture or committee, provided such capacity is so designated on such statement or report;

(8) A person who holds a certificate as a certified public accountant, then in force and effect, issued under the laws of this or any other state or foreign country and who is regularly employed by, or is a director or officer of, a corporation, partnership, association, or business trust, in his capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association, or business trust provided such capacity is so designated thereon, and provided in the signature line the title "C.P.A.", or "certified public accountant" is not designated thereon.]

[326.021. USE OF TITLE CERTIFIED PUBLIC ACCOUNTANT OR ABBREVIATION CPA, WHEN AUTHORIZED — USE OF CERTAIN TITLES PROHIBITED.] — 1. No person shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under section 326.060, holds a live permit issued under section 326.210, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 326.055; provided, however, that a foreign accountant who holds a live permit issued under section 326.210 may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

2. No partnership or corporation shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership or corporation is composed of certified public accountants unless such partnership or corporation is registered as a partnership or corporation of certified public accountants under section 326.040 or 326.050, holds a live permit issued under section 326.210, and all offices of such partnership or corporation in this state for the practice of public accounting are maintained and registered as required under section 326.055.

3. No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a public accountant, unless such person has received a certificate as a certified public accountant under section 326.060 and holds a live permit issued under section 326.210, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 326.055; provided, however, persons who, on September 28, 1977, held public accountant certificates theretofore issued under the laws of this state and who shall hold a live permit shall not be prohibited from using such title or designation.

4. No partnership or corporation shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership or corporation is composed of public accountants, unless such partnership or corporation is registered as a partnership or corporation of public accountants or certified public accountants under section 326.040 or 326.050 and holds a live permit issued under section 326.210, and all offices of such partnership or corporation in this state for the practice of public accounting are maintained and registered as required under section 326.055.

5. No person, partnership or corporation shall assume or use the title or designation "certified accountant", or "public accountant", or any other title or designation likely to be confused with "certified public accountant" or "public accountant", or the abbreviations "C.P.A." or "P.A." or similar abbreviations likely to be confused with "C.P.A." or "P.A."; except any one

who holds a live permit issued under section 326.210 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under section 326.055 and provided further that a foreign accountant who holds a live permit issued under section 326.210 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under section 326.055, may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

6. No person shall sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating that he is a certified public accountant or public accountant, or with any wording indicating that he has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless he holds a live permit issued under section 326.210 and all of his offices in this state for the practice of public accounting are maintained and registered under section 326.055; provided, however, that the provisions of this subsection shall not prohibit any officer, employee, partner or principal of any organization from affixing his signature to any statement or report in reference to the affairs of said organization with any wording designating the position, title or office which he holds in said organization; nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.

7. No person shall sign or affix a partnership or corporate name with any wording indicating that it is a partnership or corporation composed of certified public accountants, public accountants or persons having expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless the partnership or corporation holds a live permit issued under section 326.210 and all of its offices in this state for the practice of public accounting are maintained and registered as required under section 326.055.

8. No person or partnership or corporation not holding a live permit issued under section 326.210 shall hold himself or itself out to the public as a "certified public accountant" or "public accountant" by use of any such words on any sign, card, letterhead or in any advertisement or directory, without indicating thereon or therein, prominently displayed, that such person, partnership or corporation does not hold such a permit; provided, that this subsection shall not prohibit any officer, employee, partner or principal of any organization from describing himself by the position, title or office he holds in such organization; nor shall this subsection prohibit any act of public official or public employee in the performance of his duties as such.

9. No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation "and company", "and Co." or "and associates" or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation registered under section 326.040 or 326.050; provided that a sole proprietor or partnership lawfully using such title or designation in conjunction with such names or designation on September 28, 1977, may continue to do so if he or it otherwise complies with the provisions of sections 326.011 to 326.230.]

[326.022. INJUNCTION AUTHORIZED, WHEN. — 1. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such

acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client of the licensee.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.]

[326.040. QUALIFICATIONS FOR REGISTRATION. — 1. The board shall authorize the registration, as certified public accountants, of firms and partnerships, provided it be shown to the board that:

(1) Each member or partner of the firm or partnership, resident, or engaged in the practice of public accountancy in the United States is in good standing as a certified public accountant in one or more states; and

(2) Either:

(a) Each resident or local member or partner is the holder of a valid certificate and live permit as a certified public accountant issued under the laws of this state; or

(b) If there be no resident or local member or partner, each resident or local manager is the holder of a valid certificate and live permit as a certified public accountant issued under the laws of this state.

2. After the registration of a firm or partnership with the board, and the obtention of a permit, and not otherwise, the firm or partnership shall be entitled to use the designation "certified public accountant" in connection with the firm or partnership name. When firms or partnerships so registered shall secure permits, the name of the firm or partnership shall be listed in the register, together with the names of the members and managers thereof, who are local or resident in this state, with the designation "C.P.A." after each name; and the names of nonresident members who hold valid certificates issued under the laws of this state may also be listed.

3. The board shall authorize the registration, as public accountants, of firms or partnerships, and issue to them permits to practice as such; provided, the resident or local partner or partners, or, if there be no resident or local partner, the resident or local manager or managers hold a valid certificate and live permit as a public accountant or as a certified public accountant issued under the laws of this state. After the registration of the firm or partnership with the board, and the obtention of a permit, and not otherwise, the firm shall be entitled to use the designation "public accountant" in connection with the firm or partnership name. When firms or partnerships so registered secure permits, the name of the firm or partnership shall be listed in the register, together with the names of the partners or managers thereof, local or resident in this state, with the appropriate title or initials representing their respective capacities under this chapter. The names of nonresident partners who hold valid certificates issued under the laws of this state may also be listed.

4. The term "local", as used herein, is intended to denote persons engaged in practicing public accountancy in this state, who spend all or the greater part of their time during business hours in this state, but reside in another state.]

[326.050. CORPORATIONS ENTITLED TO REGISTRATION, WHEN. — 1. No corporation, whether organized under the laws of this, or any other state, shall be entitled to registration as a certified public accountant, except a corporation formed pursuant to the professional corporation law of Missouri, or pursuant to the laws of another jurisdiction authorized to practice accounting in such jurisdiction and qualified to do business in this state under the professional corporation

law of this state, and which conforms to such corporate practice rules as the board may promulgate, provided further that the president or other managing officer is the holder of a valid certificate and live permit as a certified public accountant in this state.

2. The board is authorized to register corporations as public accountants, and to issue to them permits to practice as such, provided, that such corporations on September 28, 1977, were legally organized under the laws of this state, and are entitled under their articles of incorporation and in accordance with the laws of this state, to practice public accountancy, within the meaning of sections 326.011 to 326.230; and provided further, that the president or other managing officer is the holder of a valid certificate as a certified public accountant or as a public accountant, and an unexpired permit to practice as such.

3. A corporation referred to in subsection 2 of this section, when duly registered and holding a valid and effective permit, may use the designation "public accountants" in connection with its corporate name and a corporation registered pursuant to subsection 1 of this section may use the designation "certified public accountant"; provided, however, that whenever the corporate name is used with one of such designation, save in directory listings, the names of the president, secretary and manager of its public accounting department shall also be stated or signed.

4. It is further provided that agricultural nonprofit associations which, on the twenty-third day of November, 1943, were engaged in rendering accounting services to members of their association, to other agricultural or farmers' associations, or to agricultural cooperative associations, shall be registered by the board as a public accountant, under the provisions of sections 326.011 to 326.230, and issued a permit to practice as such; provided, however, such registration and permit shall not authorize such associations to render accounting services to others than its members, other agricultural or farmers' associations, and agricultural cooperative associations.]

[326.055. REGISTRATION AND PEER REVIEW REQUIRED — EACH OFFICE TO BE SUPERVISED BY A RESIDENT CPA. — 1. Each office established and maintained in this state for the practice of public accounting in this state by a certified public accountant or partnership or corporation of certified public accountants, or by a public accountant or a partnership or corporation of public accountants shall be registered under sections 326.011 to 326.230 with the board but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be either a principal shareholder or a staff employee holding a certificate as a certified public accountant under section 326.060 and a live permit under section 326.210.

2. As a condition of registering an office under this section the board may, after November 30, 1982, and after a hearing with the licensee in accordance with section 326.132, for those licensees who have issued reports on financial statements, during the preceding five-year period, which the board has determined to have been substandard, require such licensee applying for registration, to submit to a review and evaluation of the system of quality control (peer review) of the accounting and auditing practice of the licensee. Such reviews shall be made by committees or other certified public accountant firms nominated by the Missouri Society of Certified Public Accountants and accredited by the board in accordance with regulations promulgated by the board. The board shall accept peer review reports filed with federal regulatory agencies, other state boards or professional associations to meet such review requirement if the report on such review conforms to board regulations. However, an addendum to such peer review reports may be required by the board to include any Missouri office of a multistate firm which has issued financial reports or financial statements described in this section.]

[326.060. QUALIFICATIONS FOR A CERTIFICATE — TITLES AND ABBREVIATIONS AUTHORIZED — TEMPORARY CERTIFICATES, WHEN — RECIPROCITY, WHEN. — 1. The certificate of "certified public accountant" shall be granted by the board to any person:

(1) Who is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;

(2) Who has attained the age of twenty-one years;

(3) Who is of good moral character;

(4) Who either:

(a) Applies for the initial examination referred to in subdivision (5) of this subsection prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting, or what the board determines to be substantially the equivalent of a concentration in accounting; or

(b) Applies for the initial examination referred to in subdivision (5) of this subsection on or after June 30, 1999, and has at least one hundred fifty semester hours of college education including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; and

(5) Who shall have passed a written examination in accounting, auditing, and such other related subjects as the board shall determine to be appropriate.

2. The board shall by regulation prescribe the terms and conditions, which shall be substantially the same as any established in subsection 3 of this section, under which credit will be granted to a candidate for the candidate's satisfactory completion of a written examination in any one or more of the subjects specified in subdivision (5) of subsection 1 of this section, given by the licensing authority in any other state; provided that when the candidate took such examination in such other state the candidate was not a resident in this state, had no place of business in this state, or, as an employee, was not regularly employed in this state. Such regulations shall include such requirements as the board shall determine to be appropriate in order that any examination approved as a basis for any such credit shall, in the judgment of the board, be at least as thorough as the most recent examination given by the board at the time of the granting of such credit.

3. The board shall by regulation prescribe the terms and conditions under which a candidate who passes the examination in one or more of the subjects indicated in subdivision (5) of subsection 1 of this section, may be reexamined in only the remaining subjects, with credit for the subjects previously passed. A candidate shall be entitled to any number of reexaminations pursuant to subdivision (5) of subsection 1 of this section. A candidate who fails to pass any section or sections of the examination may pay the fee and take such sections of the examination as the board by rule prescribes again at any regularly scheduled examination.

4. The board shall charge each candidate a fee, as prescribed in section 326.200. Fees for reexamination pursuant to subdivision (5) of subsection 1 of this section shall also be charged by the board as prescribed in section 326.200. The applicable fee shall be paid by the candidate at the time the candidate applies for examination or reexamination.

5. Any person who has received from the board a certificate as a certified public accountant and who holds a permit issued pursuant to section 326.210, which is in full force and effect, shall be styled and known as a "certified public accountant" and may also use the abbreviation "C.P.A.". Any certified public accountant may also be known as a "public accountant".

6. Persons who, on September 28, 1977, held certified public accountant certificates or public accountant certificates theretofore issued pursuant to the laws of this state shall not be required to obtain additional certificates pursuant to sections 326.011 to 326.230, but shall otherwise be subject to all provisions of sections 326.011 to 326.230; and such certificates theretofore issued shall, for all purposes, be considered certificates issued pursuant to sections 326.011 to 326.230 and subject to the provisions of sections 326.011 to 326.230.

7. The board shall waive the examination pursuant to subdivision (5) of subsection 1 of this section, and shall issue a certificate as a "certified public accountant" to any person paying a fee equal to the total examination fee as provided in section 326.200 and possessing the qualifications specified in subdivisions (1), (2), and (3) of subsection 1 of this section and what the board determines to be substantially the equivalent of the applicable qualifications pursuant to subdivision (4) of subsection 1 of this section who is either the holder of a:

(1) Certificate as a certified public accountant, then in full force and effect, issued under the laws of any state; or

(2) Designation in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in full force and effect; provided that:

(a) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid certificate and permit to practice issued by this state to obtain such foreign authority's comparable designation and the foreign designation:

a. Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

b. Entitles the holder to issue reports upon financial statements; and

c. Was issued upon the basis of educational and examination requirements established by the foreign authority or by law; and

(b) The applicant:

a. Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted; and

b. Passed a uniform qualifying examination in national standards acceptable to the board;

(3) An applicant pursuant to subdivision (1) or (2) of this subsection shall, in the application, list all jurisdictions, foreign and domestic, in which the applicant has applied for, or holds a designation to practice public accounting, and each holder of a certificate issued pursuant to this subsection shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

8. Upon application, the board shall issue a temporary permit and certificate to an applicant pursuant to this subsection for a certificate as a certified public accountant who has made a prima facie showing that the applicant meets all of the requirements for such a certificate and possesses the experience required for issuance of a permit. The temporary permit and certificate shall be effective only until the board shall have had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and to notify the applicant that the applicant's application for a certificate and permit has been either granted or rejected. In no event shall such temporary certificate and temporary permit be in effect for more than twelve months after the date of issuance nor shall a temporary certificate or temporary permit be reissued to the same applicant. No fee shall be charged for such temporary certificate or temporary permit. The holder of a temporary certificate and temporary permit which has not expired, or been suspended or revoked, shall be deemed to be the holder of a certificate issued pursuant to this section and the holder of a permit issued pursuant to section 326.210 until such temporary certificate and temporary permit expires, is terminated, or is suspended or revoked.

9. A candidate submitting an application for a certificate by examination who has met the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet the requirement within sixty days after the examination shall be eligible for examination pursuant to subdivision (5) of subsection 1 of this section if the candidate also meets the requirements of subdivisions (1), (2), and (3) of subsection 1 of this section. In the case of a candidate admitted to examination on the reasonable expectation that the candidate will meet the educational requirements within sixty days, no certificate shall be issued, nor credit for the examination or any part thereof given unless the educational requirement is in fact met within the sixty-day period.]

[326.100. OWNERSHIP OF WORKING PAPERS. — All statements, records, schedules and memoranda, commonly known as working papers, made by a certified public accountant or a public accountant, or by an employee of either, incident to or in the course of professional service to clients, except reports delivered to a client, shall be and remain the property of such certified public accountant or public accountant, in the absence of a written agreement between the accountant and the client to the contrary.]

[326.110. BOARD RULEMAKING AUTHORITY, PROCEDURE. — 1. The board shall prescribe rules and regulations consistent with the provisions of sections 326.011 to 326.230; provided, however, nothing herein contained shall be construed as conferring upon the board the authority to issue rules or regulations on any subject affecting the practice of public accountancy by a person previously licensed as a certified public accountant unless specifically authorized by the general assembly. Such rules and regulations may include:

- (1) Rules of procedure for governing the conduct of matters before the board;
- (2) Rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy;
- (3) Regulations governing educational requirements for issuance of the certificate of "certified public accountant" and prescribing further educational requirements, known as "requirements of continuing education", to be met from time to time by the holders of such certificates and by the holders of public accountant certificates, in order to maintain their professional knowledge and competence, as a condition to continuing in the practice of public accountancy;
- (4) Regulations governing corporations practicing public accounting, including but not limited to rules concerning their style, name, title, and affiliation with any other organization; and establishing reasonable standards with respect to professional liability insurance and unimpaired capital, and prescribing joint and several liability for torts relating to professional services for shareholders of any such corporation failing to comply with such standards;
- (5) Regulations governing peer review committee accreditation and requirements for registration of an office and issuance of permits;
- (6) Regulations prohibiting competitive bidding which is declared to be contrary to the public interest for professional engagement of certified public accountants or public accountants which regulations are not in conflict with other provisions of law.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. In promulgating rules and regulations in respect to the requirements of continuing education as authorized by the provisions of subdivision (3) of subsection 1 of this section, the board:

- (1) May, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations;
- (2) May prescribe for content, duration and organization of courses;
- (3) Shall take into account the accessibility to applicants of such continuing education as the board may require, and any impediments to the interstate practice of public accountancy which may result from differences in such requirements in states;
- (4) May provide for relaxation or suspension of such requirements for instances of individual hardship;
- (5) Shall not, in establishing requirements for continuing education, require in excess of one hundred twenty hours of continuing education in any three-year period, not more than one-third of which shall be required in any one year, and such requirements of continuing education must be susceptible of being fulfilled in programs or courses reasonably available to certificate holders within the state.

4. The board may by rule require such reports concerning continuing education as it deems necessary from holders of permits granted under the provisions of section 326.210.]

[326.120. PENALTY FOR VIOLATIONS. — Any person who violates any provision of section 326.021 shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.]

[326.121. USE OF PROHIBITED TITLES — SINGLE ACT TO SUSTAIN CONVICTION OR INJUNCTION. — The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under section 326.022 or section 326.120 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself out to be a certified public accountant or a public accountant holding a permit to practice under section 326.210. In any such action evidence of the commission of a single act prohibited by sections 326.011 to 326.230 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.]

[326.125. LEGAL REPRESENTATION FOR BOARD, HOW OBTAINED. — At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either (1) the attorney general or one of his assistants designated by him or (2) other legal counsel to appear and represent the board at each stage of such proceeding or trial until its conclusion.]

[326.130. DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE, GROUNDS FOR. —
1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.]

[326.131. REVOCATION, SUSPENSION OR REFUSAL TO ISSUE CERTIFICATE, AUTHORIZED WHEN. — After notice and hearings as provided in chapter 621, RSMo, the board shall revoke the registration and permit to practice of a partnership or corporation if at any time it does not have all the qualifications prescribed by sections 326.040 and 326.050. After notice and hearings as provided in chapter 621, RSMo, the board may revoke or suspend the registration of a partnership or corporation or may revoke or suspend its permit under section 326.210 to practice or may censure the holder of any such permit for any of the causes enumerated in section 326.130.]

[326.133. NEW OR MODIFIED CERTIFICATES TO APPLICANTS WHOSE CERTIFICATES HAVE BEEN REVOKED OR SUSPENDED, AUTHORIZED — WHEN. — Upon application in writing and after hearing pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have been revoked, or may permit the reregistration of anyone whose registration has been revoked or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.]

[326.134. INVESTIGATION REPORTS TO BE CONFIDENTIAL, EXCEPTIONS — IMMUNITY FROM CIVIL ACTIONS FOR BOARD AND CERTAIN PERSONS, WHEN. — 1. In order to assure a free flow of information for peer review pursuant to section 326.055, or proceedings before the board pursuant to section 326.132, all complaint files, investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee or firm, acting under the authority of section 326.055 or 326.132, or its employees or agents, which relate to such hearings or review shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person, other than the permit or certificate holder and the board or peer review committee or firm or their employees and agents involved in such proceedings, or be admissible in evidence in any judicial or administrative proceeding, other than the proceeding for which

such material was prepared or assembled. A final written decision and finding of fact of the board, pursuant to section 326.132, shall be a public record.

2. A person shall not be civilly liable as a result of his or her acts, omissions, or decisions in good faith as a member of the board, a peer review committee or firm, or as an employee or agent thereof, in connection with such person's duties.

3. A person shall not be civilly liable as a result of filing a report or complaint with the board or a peer review committee, or for the disclosure to the board or a peer review committee or its agents or employees, whether or not pursuant to a subpoena, of records, documents, testimony or other forms of information which constitute privileged matter in connection with proceedings of a peer review committee, or other board proceedings pursuant to section 326.132. However, such immunity from civil liability shall not apply if such act is done with malice.]

[326.151. COMMUNICATIONS OF CLIENT TO ACCOUNTANT OR EMPLOYEE PRIVILEGED — SHALL NOT BE EXAMINED THEREON WITHOUT CLIENT'S CONSENT. — A certified public accountant or a public accountant shall not be examined by judicial process or proceedings without the consent of his client as to any communication made by the client to him in person or through the media of books of account and financial records, or his advice, reports or working papers given or made thereon in the course of professional employment, nor shall a secretary, stenographer, clerk or assistant of a certified public accountant, or a public accountant, be examined, without the consent of the client concerned, concerning any fact the knowledge of which he has acquired in his capacity. This privilege shall exist in all cases except when material to the defense of an action against an accountant.]

[326.160. STATE BOARD OF ACCOUNTANCY — MEMBERS — QUALIFICATIONS — TERMS. — 1. The "Missouri State Board of Accountancy" shall consist of seven members, one of whom shall be a voting public member, appointed by the governor, by and with the advice and consent of the senate, and shall have the functions, powers and duties prescribed in this chapter.

2. Each member of the board, except the public member, shall be the holder of a certificate as a certified public accountant, issued pursuant to and pursuant to the laws of this state, and shall at the time of his or her appointment be a citizen of the United States and a resident of this state for a period of at least one year, and have practiced continuously as and under the designation of a certified public accountant, or as a public accountant, for a period of at least five years immediately preceding his or her appointment. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. The president of the Missouri Society for Certified Public Accountants in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five certified public accountants qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Society for Certified Public Accountants shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The term of office of each member appointed shall be five years. Vacancies shall be filled by the governor for the unexpired term. Every member shall, however, hold office until his or her successor is appointed and qualified. No member whose term shall have expired, or been terminated for any reason, shall be eligible for reappointment until the lapse of one year. Appointment to fill an unexpired term shall not be considered as a complete term.

4. To every member appointed by the governor there shall be issued a commission or certificate of appointment; and every appointee, before entering upon the member's duties, shall take the oath of office required by the constitution of all officers under the authority of this state.

5. Any member of the board may be removed by the governor for misconduct, incompetency or neglect of duty; provided, the member shall first be given an opportunity to be heard in his or her own behalf.]

[326.170. POWERS OF BOARD — OFFICE IN JEFFERSON CITY. — 1. The Missouri state board of accountancy shall have power to adopt and use a seal; to make and amend all rules deemed necessary for the proper administration of this chapter; conduct examinations; to administer oaths and hear testimony regarding disciplinary actions as provided by section 621.110, RSMo, or preparatory to the filing of a complaint pursuant to section 621.045, RSMo; to require, by summons or subpoena, the attendance and testimony of witnesses, and the production of books, papers and documents with respect to such testimony; and to do and perform all other acts and things herein committed to their charge and administration, or incidental thereto.

2. Said board shall maintain its office in Jefferson City, Missouri.]

[326.180. BOARD OF ACCOUNTANCY — FUNCTIONS. — 1. The board hereby created shall annually elect one of its members as president, another as vice president, another as secretary, and another as treasurer. It shall make an annual report to the governor. It shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to it, and all affidavits and other verified documents; and shall cause to be kept accurate records and minutes of its proceedings. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal, shall constitute and be received in evidence with like effect as the original. The board may employ legal counsel and such board personnel as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, and incur such travel and other expense, as, in its judgment, shall be necessary for the effectual administration of this law.

2. The board may also appoint a continuing education committee of not less than five members consisting of certified public accountants of this state holding a live permit who need not be members of the board. This committee shall:

(1) Evaluate continuing education programs to determine if they meet continuing education regulations adopted by the board;

(2) Consider applications for exceptions to continuing education regulations adopted pursuant to the provisions of section 326.110; and

(3) Consider such other matters regarding continuing education as may be assigned to it by the board.]

[326.190. MEETINGS — EXAMINATION OF APPLICANTS. — 1. The board may by rule prescribe the dates and places for holding regular meetings; as well as regulate the call, notice and holding of special meetings. Three members of the board shall constitute a quorum at any regular meeting; and at any special meeting of which due notice has been given.

2. Examination of applicants shall be held at least once in each year at such times and places as the board shall determine. Notice of the time and place for holding any such examination shall be published at least once, not less than sixty days before the date of examination, in a newspaper published and circulating in St. Louis, a newspaper published and

circulating in Kansas City, and in such other newspapers, and in such other manner, as shall, in the opinion of the board, be necessary to notify those desirous of applying for examination. The board may require, by general rule or special order, any or all applicants to appear in person before the board, and to answer questions touching their qualifications; and may, in its discretion, require evidence in support of the statements of the applicant.]

[326.200. APPLICATION FOR CERTIFICATE, PROCEDURE — FEES — FUND ESTABLISHED, TRANSFERRED TO GENERAL REVENUE, WHEN — BOARD'S COMPENSATION, EXPENSES. — 1. Every application for the granting of a certified public accountant certificate, or of a public accountant registration certificate, shall be made on a form furnished to the applicant, contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration, and be accompanied by an examination fee for each subject upon which the person is to be examined. For each subsequent sitting, the applicant shall pay a fee, as determined by the board, for each subject upon which the applicant is to be examined, not to exceed the original examination fee. For the issue of each certified public accountant certificate, the grantee shall pay a certificate fee.

2. An individual permit fee shall be charged for the issuance of each permit to practice public accountancy issued to any holder of a certified public accountant certificate or of a public accountant certificate whether the holder is in practice as an individual, or as a partner or firm member or as an employee of a corporation, firm or partnership, and a corporate permit fee shall be charged for the issuance of each permit to practice accountancy issued to any registered corporation. All fees payable pursuant to the provisions of this chapter shall be collected by the division of professional registration, who shall transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Accountancy Fund".

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

4. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. All claims for compensation and expenses shall be presented and allowed in open meetings of the board. No compensation or expenses of members of the board, its officers or employees shall be charged against the general funds of the state, but shall be paid out of the state board of accountancy fund.

5. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.]

[326.210. PERMITS TO PRACTICE, EXPIRATION DATE — LATE RENEWAL PENALTY — QUALIFICATIONS — CONTINUING EDUCATION — RULES — REVOCATION OF MANAGER'S PERMIT, GROUNDS. — 1. Permits to engage in the practice of public accounting in this state shall be issued by the board, upon payment of the fee as prescribed pursuant to section 326.200, to holders of the certificates of certified public accountants issued pursuant to section 326.060, and to holders of public accountant certificates, who shall have furnished evidence satisfactory

to the board of compliance with the requirements of subsection 2 of this section, and to firms, partnerships and corporations registered pursuant to section 326.040 or 326.050. All permits shall expire on the permit renewal date and may be renewed for each licensing period upon payment of the renewal fee as prescribed pursuant to section 326.200. A permit holder whose permit has expired and who has not renewed the person's permit within two months of the permit renewal date may renew the person's permit upon payment of the permit fee together with a delinquent fee. No permit shall be renewed more than two years after expiration. Permits to engage in the practice of public accounting shall not be issued to the holder of a certificate issued by this state pursuant to section 326.060 until such person shall have had:

(1) Two years' experience acceptable to the board in the practice of public accounting under the supervision of a certified public accountant holding a certificate and live permit from this or another state, which experience shall include, but not be limited to, two years' experience in the practice of public accounting under the supervision of the state auditor who is a certified public accountant holding a certificate and live permit from this or another state; or

(2) At least two years of satisfactory experience acceptable to the board as a certified public accountant in the legal practice of public accounting in another state while holding a live permit to practice from the other state; or

(3) Four years' experience acceptable to the board in the practice of governmental accounting, budgeting or auditing, including auditing of tax returns, as an employee of the state of Missouri, a political subdivision of this state, or the United States government, under the supervision of a certified public accountant acceptable to the board holding a certificate and live permit from this or another state, who is the head of the department, division or unit in which such person is employed. Only one year of public accounting experience shall be required of an internal revenue agent who has been issued a certificate by this state pursuant to section 326.060 and who has had at least four years' experience as an employee of the federal government as an internal revenue agent in the Internal Revenue Service, of which at least two years is certified by a district director of Internal Revenue Service as having been of field agent experience at the journeyman level, grade GS-512-11 or above, as specified in the United States Civil Service Commission's qualification standard as of December 1, 1975; or

(4) Four years' experience acceptable to the board in the practice of accounting for a corporation, partnership or other business entity, other than a governmental entity described in subdivision (3) of this subsection, under the supervision of a certified public accountant, acceptable to the board, holding a certificate and live permit from this or another state and who is head of the department, division or unit in which such person is employed; or

(5) Experience substantially equivalent to the experience requirement of this state as the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country.

2. After the expiration of the three-year period immediately following the effective date of board regulations establishing requirements of continuing education, every application for renewal of an annual permit to practice by any person who has held a certificate as a certified public accountant for three years or more shall be accompanied or supported by such evidence, as the board shall prescribe, of satisfaction of such requirements during the last three years preceding the application. Failure by an applicant for renewal of an annual permit to furnish such evidence shall constitute grounds for revocation, suspension or refusal to renew such permit in a proceeding pursuant to section 326.130, unless the board, in its discretion, shall determine such failure to have been due to reasonable cause or excusable neglect. The board, in its discretion, may renew an annual permit to practice despite failure to furnish evidence of satisfaction of requirements of continuing education upon condition that the applicant follow a particular program or schedule of continuing education.

3. The attestation or opinion concerning the presentation of financial or other quantitative data shall be restricted to those holding a live permit pursuant to this section.

4. Refusal by the resident manager of an office, registered pursuant to section 326.055, to submit such office to peer review, if required by the board, shall constitute grounds for revocation, suspension or refusal to renew the manager's permit in a proceeding pursuant to section 326.130.]

[326.230. SEVERABILITY CLAUSE. — If any provision of sections 326.011 to 326.230 or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provision to others or other circumstances shall not be affected thereby.]

[327.605. LANDSCAPE ARCHITECTURAL COUNCIL CREATED — APPOINTMENT — TERM — QUALIFICATIONS — REMOVAL FOR CAUSE — VACANCIES — COMPENSATION, EXPENSES — MEETINGS — NO PERSONAL LIABILITY FOR OFFICIAL ACTS. — 1. There is hereby created within the division of professional registration a council to be known as the "Landscape Architectural Council". The council shall consist of four landscape architects and one public member appointed by the director of the division. Council members shall serve for a term of four years, except that the first council appointed shall consist of one member whose initial term shall be four years, one member whose initial term shall be for three years, one member whose initial term shall be for two years and one member whose initial term shall be for one year. No member of the council shall serve more than two consecutive four-year terms.

2. Each council member, other than the public member, shall be a citizen of the United States, a resident of the state of Missouri for at least one year, no younger than thirty years of age, have at least ten years of active experience in the professional practice of landscape architecture as his or her principal livelihood and, except for the first council appointed, be registered as a landscape architect. The president of the Missouri Association of Landscape Architects in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five landscape architects qualified and willing to fill the vacancy in question, with the request and recommendation that the director appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Landscape Architects shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. The public member shall be, at the time of his or her appointment, a citizen of the United States, a resident of this state for a period of one year, a registered voter, a person who is not and never was a member of the profession regulated pursuant to sections 327.600 to 327.635 or the spouse of such person, and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 327.600 to 327.635 or an activity or organization directly related to the profession regulated pursuant to sections 327.600 to 327.635. The duties of the public member shall not include the determination of the technical requirements to be met for certification. The public member is subject to the provisions of section 620.132, RSMo.

4. Members of the council may be removed from office for cause. Upon the death, resignation or removal from office of any member of the council, the appointment to fill the vacancy shall be for the unexpired portion of the term so vacated and shall be made within sixty days after the vacancy occurs. Any such vacancy shall be filled by the director of the division of professional registration.

5. Each member of the council may receive as compensation an amount set by the division not to exceed fifty dollars per day for each day devoted to council affairs and shall be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

6. The council shall meet with the division at least twice each year and advise the division on matters within the scope of sections 327.600 to 327.635. The organization of the council shall be established by the members of the council.

7. The council may sue and be sued as the landscape architecture council, and its members need not be named as parties. Members of the council shall not be personally liable either jointly or severally for any act committed in the performance of their official duties as council members, nor shall any council member be personally liable for any costs which accrue in any action by or against the council.]

[327.609. DIVISION OF PROFESSIONAL REGISTRATION, POWERS AND DUTIES — RULEMAKING AUTHORITY, GENERALLY, THIS CHAPTER — PROCEDURE. — The division shall:

- (1) Recommend prosecution for violations of the provisions of sections 327.600 to 327.635 to the appropriate prosecuting or circuit attorney;
- (2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 327.600 to 327.635;
- (3) Exercise all budgeting, purchasing, reporting and other related management functions;
- (4) Promulgate, in collaboration with the council, such rules and regulations as are necessary to administer the provisions of sections 327.600 to 327.635. These rules and regulations shall be filed in the office of the secretary of state in accordance with chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[327.625. FEES TO BE ESTABLISHED BY DIVISION BY RULE — DEPOSIT IN THE LANDSCAPE ARCHITECTURAL COUNCIL FUND AS CREATED — FUND TO LAPSE INTO GENERAL REVENUE, WHEN. — 1. The division shall set the amount of the fees which sections 327.600 to 327.635 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 327.600 to 327.635. All fees provided for in this section shall be paid to and collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Landscape Architectural Council Fund" which is hereby created.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation to the council for the preceding fiscal year or, if the council requires by rule, registration renewal less frequently than yearly, then three times the appropriations to the council for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations to the council for the preceding fiscal year.]

[327.627. ADVERTISING OR INDICATING TO PUBLIC AS LANDSCAPE ARCHITECT IF NOT REGISTERED IS UNLAWFUL. — One year after August 28, 1989, it shall be unlawful for any person to advertise or indicate to the public that he is a landscape architect in this state, unless he has been registered as a landscape architect by the division and is in good standing on its records.]

SECTION B. EMERGENCY CLAUSE. — Because of the importance of children receiving adequate access to dental care, the repeal and reenactment of sections 167.181, 192.070, and 332.311 and the enactment of sections 332.072 and 332.324 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 167.181, 192.070, and 332.311 and the enactment of sections

332.072 and 332.324 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2001

HB 575 [SS SCS HB 575]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises Motor Vehicle Franchise Practices Law.

AN ACT to repeal sections 407.815, 407.816, 407.820, 407.822 and 407.825, RSMo 2000, and section 407.822 as truly agreed to and finally passed by the first regular session of the ninety-first general assembly in senate committee substitute for house bill no. 693, relating to franchise practices, and to enact in lieu thereof eighteen new sections relating to the same subject, with a delayed effective date for certain sections.

SECTION

- A. Enacting clause.
- 407.815. Definitions.
- 407.816. Motor driven vehicle, defined for section 407.815 — exemption for recreational vehicle dealers or manufacturers.
- 407.817. Establishment or transfer of a new motor vehicle dealer, procedures for franchisor.
- 407.820. Franchisor subject to jurisdiction of Missouri courts and administrative agencies, when — service of process.
- 407.822. Application for hearing with administrative hearing commission, filing, when — time and place of hearing — notice to parties — final order, when — petition for review of final order — franchisee's right to file application for hearing, when — notice to franchisee, when, exceptions — statement required in franchisor's notice — consolidation of applications — burden of proof.
- 407.822. Application for hearing with administrative hearing commission, filing, when — time and place of hearing — notice to parties — final order, when — petition for review of final order — franchisee's right to file application for hearing, when — notice to franchisee, when, exceptions — statement required in franchisor's notice — consolidation of applications — burden of proof.
- 407.825. Unlawful practices.
- 407.826. New motor vehicle dealership, restrictions on operation of or ownership by a franchisor.
- 407.828. Franchisor's duties to franchisee — schedule of compensation — claims payment.
- 407.1320. Definitions.
- 407.1323. Recreational vehicle manufacturers and dealers, written agreement required, when — sales of RVs, conditions.
- 407.1326. Termination notice, requirements, contents.
- 407.1329. Repurchase upon termination of agreement.
- 407.1332. Change in ownership, notice — rejection of change, notice.
- 407.1335. Succession in dealerships, conditions, restrictions and prohibitions.
- 407.1338. Warranty service, warrantor to provide written obligations — compensation of dealer for warranty service, submission of warranty claims, procedure.
- 407.1340. Violation of dealer agreement.
- 407.1343. Damage to new RVs, written disclosure to dealer required, when — reversion of ownership to manufacturer or distributor, when.
- 407.1346. New RV dealership, restrictions on operation or ownership by a manufacturer.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 407.815, 407.816, 407.820, 407.822 and 407.825, RSMo 2000, and section 407.822 as truly agreed to and finally passed by the first regular session of the ninety-first general assembly in senate committee substitute for house bill

no. 693, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 407.815, 407.816, 407.817, 407.820, 407.822, 407.825, 407.826, 407.828, 407.1320, 407.1323, 407.1326, 407.1329, 407.1332, 407.1335, 407.1338, 407.1340, 407.1343 and 407.1346, to read as follows:

407.815. DEFINITIONS. — As used in sections 407.810 to 407.835, unless the context otherwise requires, the following terms mean:

(1) "Administrative hearing commission", the body established in chapter 621, RSMo, to conduct administrative hearings;

(2) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control;

(3) "Coerce", to force a person to act in a given manner or to compel by pressure or threat but shall not be construed to include the following:

(a) Good faith recommendations, exposition, argument, persuasion or attempts at persuasion;

(b) Notice given in good faith to any franchisee of such franchisee's violation of terms or provisions of such franchise or contractual agreement;

(c) Any other conduct set forth in section 407.830 as a defense to an action brought pursuant to sections 407.810 to 407.835; or

(d) Any other conduct set forth in sections 407.810 to 407.835 that is permitted of the franchisor or is expressly excluded from coercion or a violation of sections 407.810 to 407.835;

(4) "Franchise" or "**franchise agreement**", a written arrangement or contract for a definite or indefinite period, in which a person grants to another person a license to use, or the right to grant to others a license to use, a trade name, trademark, service mark, or related characteristics, in which there is a community of interest in the marketing of goods or services, or both, at wholesale or retail, by agreement, lease or otherwise, and in which the operation of the franchisee's business with respect to such franchise is substantially reliant on the franchisor for the continued supply of franchised new motor vehicles, parts and accessories for sale at wholesale or retail;

(5) "Franchisee", a person to whom a franchise is granted;

(6) "Franchisor", a person who grants a franchise to another person;

(7) "Motor vehicle", **for the purposes of sections 407.810 to 407.835**, any motor-driven vehicle required to be registered pursuant to the provisions of chapter 301, RSMo, except that, motorcycles and all-terrain vehicles as defined in section 301.010, RSMo, shall not be included;

(8) "New", when referring to motor vehicles or parts, means those motor vehicles or parts which have not been held except as inventory, as that term is defined in subdivision (4) of section 400.9-109, RSMo;

(9) "Person", a **natural person**, sole proprietor, partnership, corporation, or any other form of business **entity or** organization.

407.816. MOTOR DRIVEN VEHICLE, DEFINED FOR SECTION 407.815 — EXEMPTION FOR RECREATIONAL VEHICLE DEALERS OR MANUFACTURERS. — 1. As used in subdivision [(5)] (7) of section 407.815, the term "motor [driven] vehicle" shall not include "trailer" as such term is defined in subdivision [(56)] (58) of section 301.010, RSMo.

2. **Prior to August 1, 2002, the provisions of section 407.817, subdivisions (13), (17) and (18) of section 407.825 and section 407.826 shall not apply to recreational vehicle dealers or manufacturers.**

3. **As of August 1, 2002, the term "motor vehicle" as used in sections 407.810 to 407.835 shall not apply to recreational vehicles as defined in section 407.1320.**

407.817. ESTABLISHMENT OR TRANSFER OF A NEW MOTOR VEHICLE DEALER, PROCEDURES FOR FRANCHISOR. — 1. For purposes of this section, "relevant market area" means:

(1) For a proposed new motor vehicle dealer or a new motor vehicle dealer who plans to relocate his or her place of business in a county having a population which is greater than one hundred thousand, the area within a radius of six miles of the intended site of the proposed or relocated dealer. The six-mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business; or

(2) For a proposed new motor vehicle dealer or a new motor vehicle dealer who plans to relocate his or her place of business in a county having a population which is not greater than one hundred thousand, the area within a radius of ten miles of the intended site of the proposed or relocated dealer, or the county line, whichever is closer to the intended site. The ten-mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

2. As used in this section, "relocate" and "relocation" shall not include the relocation of a new motor vehicle dealer within two miles of its established place of business.

3. Before a franchisor enters into a franchise establishing or relocating a new motor vehicle dealer within a relevant market area where the same line-make is represented, the franchisor shall give written notice to each new motor vehicle dealer of the same line-make in the relevant market area of its intention to establish an additional dealer or to relocate an existing dealer within that relevant market area.

4. Within thirty days after receiving the notice provided for in subsection 3 of this section, or within thirty days after the end of any appeal procedure provided by the franchisor, a new motor vehicle dealer may bring an action pursuant to section 407.822 to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer.

5. This section shall not apply to the reopening or replacement in a relevant market area of a closed dealership that has been closed within the preceding year, if the established place of business of the reopened or replacement dealer is within two miles of the established place of business of the closed dealership.

6. In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line-make, the court shall take into consideration the existing circumstances, including, but not limited to, the following:

- (1) Permanency of the investment;
 - (2) Effect on the retail motor vehicle business and the consuming public in the relevant market area;
 - (3) Whether it is injurious or beneficial to the public welfare;
 - (4) Whether the new motor vehicle dealers of the same line-make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line-make in the market area, including the adequacy of motor vehicle sales and qualified service personnel;
 - (5) Whether the establishment or relocation of the new motor vehicle dealer would promote competition;
 - (6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area; and
 - (7) Effect on the relocating dealer of a denial of its relocations into the relevant market area.
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7. The remedies and relief available pursuant to section 407.835 shall apply to this section.

407.820. FRANCHISOR SUBJECT TO JURISDICTION OF MISSOURI COURTS AND ADMINISTRATIVE AGENCIES, WHEN — SERVICE OF PROCESS. — Any person who is engaged or engages directly or indirectly in purposeful contacts within the state of Missouri in connection with the offering, advertising, purchasing, selling, or contracting to purchase or to sell new motor vehicles, or who, being a motor vehicle franchisor, is transacting or transacts any business with a motor vehicle franchisee who maintains a place of business within the state and with whom he or she has a franchise, shall be subject to the jurisdiction of the courts **and administrative agencies** of the state of Missouri, upon service of process in accordance with the provisions of section 506.510, RSMo, irrespective of whether such person is a manufacturer, importer, distributor or dealer in new motor vehicles.

407.822. APPLICATION FOR HEARING WITH ADMINISTRATIVE HEARING COMMISSION, FILING, WHEN — TIME AND PLACE OF HEARING — NOTICE TO PARTIES — FINAL ORDER, WHEN — PETITION FOR REVIEW OF FINAL ORDER — FRANCHISEE'S RIGHT TO FILE APPLICATION FOR HEARING, WHEN — NOTICE TO FRANCHISEE, WHEN, EXCEPTIONS — STATEMENT REQUIRED IN FRANCHISOR'S NOTICE — CONSOLIDATION OF APPLICATIONS — BURDEN OF PROOF. — 1. Any party seeking relief pursuant to the provisions of sections 407.810 to 407.835 may file an application for a hearing with the administrative hearing commission within the time periods specified in this section. The application for a hearing shall comply with the requirements for a request for agency action set forth in chapter 536, RSMo. Simultaneously, with the filing of the application for a hearing with the administrative hearing commission, the applicant shall send by certified mail, return receipt requested, a copy of the application to the party or parties against whom relief is sought. [Within ten days of] **Upon** receiving a timely application for a hearing, the administrative hearing commission shall enter an order fixing a date, time and place for a hearing on the record. [Such hearing shall be within forty-five days of the date of the order but the administrative hearing commission may continue the hearing date up to forty-five additional days by agreement of the parties or upon a finding of good cause.] The administrative hearing commission shall send by certified mail, return receipt requested, a copy of the order to the party seeking relief and to the party or parties against whom relief is sought. The order shall also state that the party against whom relief is sought shall not proceed with the initiation of its activity or activities until the administrative hearing commission issues its final decision or order, **and the party against whom relief is sought shall, within thirty days of such order, file an answer or other responsive pleading directed to each claim for relief set forth in the application for hearing. Failure to answer or otherwise respond within such time frame may be deemed by the administrative hearing commission as an admission of the grounds for relief set forth in the application for hearing.**

2. Unless otherwise expressly provided in sections 407.810 to 407.835, the provisions of chapter 536, RSMo, shall govern hearings and prehearing procedures conducted pursuant to the authority of this section. **Any party may obtain discovery in the same manner, and under the same conditions and requirements, as is or may hereafter be provided for with respect to discovery in civil actions by rule of the supreme court of Missouri for use in the circuit courts, and the administrative hearing commission may enforce discovery by the same methods as provided by supreme court rule for use in civil cases.** The administrative hearing commission shall issue a final decision or order, in proceedings arising pursuant to the provisions of sections 407.810 to 407.835, within [sixty] **ninety** days from the conclusion of the hearing. **In any proceeding initiated pursuant to sections 407.810 to 407.835 involving a matter requiring a franchisor to show good cause for any intended action being protested by a franchisee, the franchisor shall refrain from taking the protested action if, after a hearing**

on the matter before the administrative hearing commission, the administrative hearing commission determines that good cause does not exist for the franchisor to take such action. The franchisee may, if necessary, seek enforcement of the decision of the administrative hearing commission pursuant to the provisions of section 407.835. Venue for such proceedings shall be in the circuit court of Cole County, Missouri, or in the circuit court of the county in which the franchisee resides or operates the franchise business. In determining any relief necessary for enforcement of the decision of the administrative hearing commission, the court shall defer to the commission's factual findings, and review shall be limited to a determination of whether the commission's decision was authorized by law and whether the commission abused its discretion. Any final decisions of the administrative hearing commission shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part of the hearing, is held and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice of the final decision in such a case. **Appeal of the administrative hearing commission's decision pursuant to this section shall not preclude any action authorized by section 407.835, brought in a court of competent jurisdiction, requesting an award of legal or equitable relief, provided that if such an action is brought solely for the purpose of enforcing a decision of the administrative hearing commission which is on appeal pursuant to this subsection, the court in which such action is pending may hold in abeyance its judgment pending issuance of a decision by the court of appeals.** Review pursuant to this section shall be exclusive and decisions of the administrative hearing commission reviewable pursuant to this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise, except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission with the appropriate court of appeals.

3. Any franchisee receiving a notice from a franchisor pursuant to the provisions of sections 407.810 to 407.835, or any franchisee adversely affected by a franchisor's acts or proposed acts described in the provisions of sections 407.810 to 407.835, shall be entitled to file an application for a hearing before the administrative hearing commission for a determination as to whether the franchisor has good cause for its acts or proposed acts.

4. Not less than sixty days before the effective date of the initiation of any enumerated act pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825, a franchisor shall give written notice to the affected franchisee or franchisees, by certified mail, return receipt requested, except as follows:

(1) Upon the initiation of an act pursuant to subdivision (5) of subsection 1 of section 407.825, such notice shall be given not less than fifteen days before the effective date of such act only if the grounds for the notice include the following:

(a) Transfer of any ownership or interest in the franchised dealership without the consent of the motor vehicle franchisor;

(b) Material misrepresentation by the motor vehicle franchisee in applying for the franchise;

(c) Insolvency of the motor vehicle franchisee or the filing of any petition by or against the motor vehicle franchisee under any bankruptcy or receivership law;

(d) Any unfair business practice by the motor vehicle franchisee after the motor vehicle franchisor has issued a written warning to the motor vehicle franchisee to desist from such practice;

(e) Conviction of the motor vehicle franchisee of a crime which is a felony;

(f) Failure of the motor vehicle franchisee to conduct customary sales and service operations during customary business hours for at least seven consecutive business days unless such closing is due to an act of God, strike or labor difficulty or other cause over which the motor vehicle franchisee has no control; or

(g) Revocation of the motor vehicle franchisee's license;

(2) Upon initiation of an act pursuant to subdivision (7) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a written proposal to consummate such sale or transfer and the receipt of all necessary information and documents generally used by the franchisor to conduct its review. **The franchisor shall acknowledge in writing to the applicant the receipt of the information and documents and if the franchisor requires additional information or documents to complete its review, the franchisor shall notify the applicant within fifteen days of the receipt of the information and documents. If the franchisor fails to request additional information and documents from the applicant within fifteen days after receipt of the initial forms, the sixty-day time period for approval shall be deemed to run from the initial receipt date. Otherwise, the sixty-day time period for approval shall run from receipt of the supplemental requested information. In no event shall the total time period for approval exceed seventy-five days from the date of the receipt of all necessary information and documents generally used by the franchisor to conduct its review.** The franchisor's notice of disapproval shall also specify the reasonable standard which the franchisor contends is not satisfied and the reason the franchisor contends such standard is not satisfied. Failure on the part of the franchisor to provide such notice shall be conclusively deemed an approval by the franchisor of the proposed sale or transfer to the proposed transferee. A franchisee's application for a hearing shall be filed with the administrative hearing commission within twenty days from receipt of such franchisor's notice;

(3) Pursuant to paragraphs (a) and (b) of subdivision (14) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a deceased or incapacitated franchisee's designated family member's intention to succeed to the franchise or franchises or of the franchisor's receipt of the personal and financial data of the designated family member, whichever is later.

5. A franchisor's notice to a franchisee or franchisees pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825 shall contain a statement of the particular grounds supporting the intended action or activity which shall include any reasonable standards which were not satisfied. The notice shall also contain at a minimum, on the first page thereof, a conspicuous statement which reads as follows: "NOTICE TO FRANCHISEE: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE MISSOURI ADMINISTRATIVE HEARING COMMISSION IN JEFFERSON CITY, MISSOURI, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE CONTENTS OF THIS NOTICE. ANY ACTION MUST BE FILED WITHIN TWENTY DAYS FROM RECEIPT OF THIS NOTICE."

6. When more than one application for a hearing is filed with the administrative hearing commission, the administrative hearing commission may consolidate the applications into one proceeding to expedite the disposition of all relevant issues.

7. In all proceedings before the administrative hearing commission pursuant to this section, section 407.825 and section 621.053, RSMo, where the franchisor is required to give notice pursuant to subsection 4 of this section, the franchisor shall have the burden of proving by a preponderance of the evidence that good cause exists for its actions. In all other actions, the franchisee shall have the burden of proof.

[407.822. APPLICATION FOR HEARING WITH ADMINISTRATIVE HEARING COMMISSION, FILING, WHEN — TIME AND PLACE OF HEARING — NOTICE TO PARTIES — FINAL ORDER, WHEN — PETITION FOR REVIEW OF FINAL ORDER — FRANCHISEE'S RIGHT TO FILE APPLICATION FOR HEARING, WHEN — NOTICE TO FRANCHISEE, WHEN, EXCEPTIONS — STATEMENT REQUIRED IN FRANCHISOR'S NOTICE — CONSOLIDATION OF APPLICATIONS — BURDEN OF PROOF. — 1. Any party seeking relief pursuant to the provisions of sections 407.810 to 407.835 may file an application for a hearing with the administrative hearing commission within the time periods specified in this section. The application for a hearing shall

comply with the requirements for a request for agency action set forth in chapter 536, RSMo. Simultaneously, with the filing of the application for a hearing with the administrative hearing commission, the applicant shall send by certified mail, return receipt requested, a copy of the application to the party or parties against whom relief is sought. [Within ten days of receiving] **Upon receipt of** a timely application for a hearing, the administrative hearing commission shall enter an order fixing a date, time and place for a hearing on the record. [Such hearing shall be within forty-five days of the date of the order but the administrative hearing commission may continue the hearing date up to forty-five additional days by agreement of the parties or upon a finding of good cause.] The administrative hearing commission shall send by certified mail, return receipt requested, a copy of the order to the party seeking relief and to the party or parties against whom relief is sought. The order shall also state that the party against whom relief is sought shall not proceed with the initiation of its activity or activities until the administrative hearing commission issues its final decision or order.

2. Unless otherwise expressly provided in sections 407.810 to 407.835, the provisions of chapter 536, RSMo, shall govern hearings and prehearing procedures conducted pursuant to the authority of this section. The administrative hearing commission shall issue a final decision or order, in proceedings arising pursuant to the provisions of sections 407.810 to 407.835[, within sixty days from the conclusion of the hearing]. Any final decisions **of the administrative hearing commission** shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part of the hearing, is held and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice of the final decision in such a case. Review pursuant to this section shall be exclusive and decisions of the administrative hearing commission reviewable pursuant to this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise, except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission with the appropriate court of appeals.

3. Any franchisee receiving a notice from a franchisor pursuant to the provisions of sections 407.810 to 407.835, or any franchisee adversely affected by a franchisor's acts or proposed acts described in the provisions of sections 407.810 to 407.835, shall be entitled to file an application for a hearing before the administrative hearing commission for a determination as to whether the franchisor has good cause for its acts or proposed acts.

4. Not less than sixty days before the effective date of the initiation of any enumerated act pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825, a franchisor shall give written notice to the affected franchisee or franchisees, by certified mail, return receipt requested, except as follows:

(1) Upon the initiation of an act pursuant to subdivision (5) of subsection 1 of section 407.825, such notice shall be given not less than fifteen days before the effective date of such act only if the grounds for the notice include the following:

(a) Transfer of any ownership or interest in the franchised dealership without the consent of the motor vehicle franchisor;

(b) Material misrepresentation by the motor vehicle franchisee in applying for the franchise;

(c) Insolvency of the motor vehicle franchisee or the filing of any petition by or against the motor vehicle franchisee under any bankruptcy or receivership law;

(d) Any unfair business practice by the motor vehicle franchisee after the motor vehicle franchisor has issued a written warning to the motor vehicle franchisee to desist from such practice;

(e) Conviction of the motor vehicle franchisee of a crime which is a felony;

(f) Failure of the motor vehicle franchisee to conduct customary sales and service operations during customary business hours for at least seven consecutive business days unless

such closing is due to an act of God, strike or labor difficulty or other cause over which the motor vehicle franchisee has no control; or

(g) Revocation of the motor vehicle franchisee's license;

(2) Upon initiation of an act pursuant to subdivision (7) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a written proposal to consummate such sale or transfer and the receipt of all necessary information and documents generally used by the franchisor to conduct its review. The franchisor's notice of disapproval shall also specify the reasonable standard which the franchisor contends is not satisfied and the reason the franchisor contends such standard is not satisfied. Failure on the part of the franchisor to provide such notice shall be conclusively deemed an approval by the franchisor of the proposed sale or transfer to the proposed transferee. A franchisee's application for a hearing shall be filed with the administrative hearing commission within twenty days from receipt of such franchisor's notice;

(3) Pursuant to paragraphs (a) and (b) of subdivision (14) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a deceased or incapacitated franchisee's designated family member's intention to succeed to the franchise or franchises or of the franchisor's receipt of the personal and financial data of the designated family member, whichever is later.

5. A franchisor's notice to a franchisee or franchisees pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825 shall contain a statement of the particular grounds supporting the intended action or activity which shall include any reasonable standards which were not satisfied. The notice shall also contain at a minimum, on the first page thereof, a conspicuous statement which reads as follows: "NOTICE TO FRANCHISEE: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE MISSOURI ADMINISTRATIVE HEARING COMMISSION IN JEFFERSON CITY, MISSOURI, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE CONTENTS OF THIS NOTICE. ANY ACTION MUST BE FILED WITHIN TWENTY DAYS FROM RECEIPT OF THIS NOTICE."

6. When more than one application for a hearing is filed with the administrative hearing commission, the administrative hearing commission may consolidate the applications into one proceeding to expedite the disposition of all relevant issues.

7. In all proceedings before the administrative hearing commission pursuant to this section, section 407.825 and section 621.053, RSMo, where the franchisor is required to give notice pursuant to subsection 4 of this section, the franchisor shall have the burden of proving by a preponderance of the evidence that good cause exists for its actions. In all other actions, the franchisee shall have the burden of proof.]".

407.825. UNLAWFUL PRACTICES. — Notwithstanding the terms of any franchise agreement, the performance, whether by act or omission, by a motor vehicle franchisor of any or all of the following acts enumerated in this subsection are hereby defined as unlawful practices, the remedies for which are set forth in section 407.835:

(1) To engage in any conduct which is capricious, in bad faith, or unconscionable and which causes damage to a motor vehicle franchisee or to the public; provided, that good faith conduct engaged in by motor vehicle franchisors as sellers of new motor vehicles or parts or as holders of security interest therein, in pursuit of rights or remedies accorded to sellers of goods or to holders of security interests pursuant to the provisions of chapter 400, RSMo, uniform commercial code, shall not constitute unfair practices pursuant to sections 407.810 to 407.835;

(2) To coerce any motor vehicle franchisee to accept delivery of any new motor vehicle or vehicles, equipment, parts or accessories therefor, or any other commodity or commodities which such motor vehicle franchisee has not ordered after such motor vehicle franchisee has rejected such commodity or commodities. It shall not be deemed a violation of this section for a motor vehicle franchisor to require a motor vehicle franchisee to have an inventory of parts, tools, and equipment reasonably necessary to service the motor vehicles sold by a motor vehicle franchisor;

or new motor vehicles reasonably necessary to meet the demands of dealers or the public or to display to the public the full line of a motor vehicle franchisor's product line;

(3) To unreasonably refuse to deliver in reasonable quantities and within a reasonable time after receipt of orders for new motor vehicles, such motor vehicles as are so ordered and as are covered by such franchise and as are specifically publicly advertised by such motor vehicle franchisor to be available for immediate delivery; provided, however, the failure to deliver any motor vehicle shall not be considered a violation of sections 407.810 to 407.835 if such failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, shortage of products or materials, freight delays, embargo or other cause of which such motor vehicle franchisor shall have no control;

(4) To coerce any motor vehicle franchisee to enter into any agreement with such motor vehicle franchisor or to do any other act prejudicial to such motor vehicle franchisee, by threatening to cancel any franchise or any contractual agreement existing between such motor vehicle franchisor and motor vehicle franchisee; provided, however, that notice in good faith to any motor vehicle franchisee of such motor vehicle franchisee's violation of any provisions of such franchise or contractual agreement shall not constitute a violation of sections 407.810 to 407.835;

(5) To terminate, cancel or refuse to continue any franchise **without good cause**, directly or indirectly through the actions of the franchisor, unless such new motor vehicle franchisee substantially defaults in the performance of such franchisee's reasonable and lawful obligations under such franchisee's franchise, or such new motor vehicle franchisor discontinues the sale in the state of Missouri of such franchisor's products which are the subject of the franchise[;

(a) Notwithstanding the terms of any franchise agreement to the contrary, good cause to terminate, cancel or refuse to continue any franchise agreement shall not be established based upon the fact that the motor vehicle franchisee owns, has an investment in, participates in the management of or holds a franchise agreement for the sale or service of another make or line of new motor vehicles or the motor vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the motor vehicle franchisor prior to February 1, 1997, or such establishment is approved in writing by the franchisee and the franchisor. If the franchise agreement requires the approval of the franchisor, such approval shall be requested in writing by the franchisee and the franchisor shall approve or disapprove such a request in writing within sixty days of receipt of such request. A request from a franchisee shall be deemed to have been approved if the franchisor fails to notify the franchisee, in writing, of its disapproval within sixty days after its receipt of the written request;

(b)]. In determining whether good cause exists, the administrative hearing commission shall take into consideration the existing circumstances, including, but not limited to, the following factors:

[a.] (a) The franchisee's sales in relation to sales in the market;

[b.] (b) The franchisee's investment and obligations;

[c.] (c) Injury to the public welfare;

[d.] (d) The adequacy of the franchisee's service facilities, equipment, parts and personnel in relation to those of other franchisees of the same line-make;

[e.] (e) Whether warranties are being honored by the franchisee;

[f.] (f) The parties' compliance with their franchise agreement;

[g.] (g) The desire of a franchisor for market penetration or a market study, if any, prepared by the franchisor or franchisee are two factors which may be considered;

[h.] (h) The harm to the franchisor;

(6) To prevent by contract or otherwise, any motor vehicle franchisee from changing the capital structure of the franchisee's franchise of such motor vehicle franchisee or the means by or through which the franchisee finances the operation of the franchisee's franchise, provided the motor vehicle franchisee at all times meets any reasonable capital standards agreed to between the motor vehicle franchisee and the motor vehicle franchisor and grants to the motor vehicle

franchisor a purchase money security interest in the new motor vehicles, new parts and accessories purchased from the motor vehicle franchisor;

(7) (a) Prevent, by contract or otherwise, any sale or transfer of a franchisee's franchise or franchises or interest or management thereof; provided, if the franchise specifically permits the franchisor to approve or disapprove any such proposed sale or transfer, a franchisor shall only be allowed to disapprove a proposed sale or transfer if the interest being sold or transferred when added to any other interest owned by the transferee constitutes fifty percent or more of the ownership interest in the franchise and if the proposed transferee fails to satisfy any standards of the franchisor which are in fact normally relied upon by the franchisor prior to its entering into a franchise, and which relate to the proposed management or ownership of the franchise operations or to the qualification, capitalization, integrity or character of the proposed transferee and which are reasonable. A franchisee may request, at any time, that the franchisor provide a copy of the standards which are normally relied upon by the franchisor to evaluate a proposed sale or transfer and a proposed transferee;

(b) The franchisee and the prospective franchisee shall cooperate fully with the franchisor in providing information relating to the prospective transferee's qualifications, capitalization, integrity and character;

(c) In the event of a proposed sale or transfer of a franchise, the franchisor shall be permitted to exercise a right of first refusal to acquire the franchisee's assets or ownership if:

a. The franchise agreement permits the franchisor to exercise a right of first refusal to acquire the franchisee's assets or ownership in the event of a proposed sale or transfer;

b. Such sale or transfer is conditioned upon the franchisor or franchisee entering a franchise agreement with the proposed transferee;

c. The exercise of the right of first refusal shall result in the franchisee and the franchisee's owners receiving the same or greater consideration and the same terms and conditions as contracted to receive in connection with the proposed sale or transfer;

d. The sale or transfer does not involve the sale or transfer to an immediate member or members of the family of one or more franchisee owners, defined as a spouse, child, grandchild, spouse of a child or grandchild, brother, sister or parent of the franchisee owner, or to the qualified manager, defined as an individual who has been employed by the franchisee for at least two years and who otherwise qualifies as a franchisee operator, or a partnership or corporation controlled by such persons; and

e. The franchisor agrees to pay the reasonable expenses, including attorney's fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed transferee prior to the franchisor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the franchise or the franchisee's assets. Notwithstanding the foregoing, no payment of such expenses and attorney's fees shall be required if the franchisee has not submitted or caused to be submitted an accounting of those expenses within fourteen days of the franchisee's receipt of the franchisor's written request for such an accounting. Such accounting may be requested by a franchisor before exercising its right of first refusal;

(d) For determining whether good cause exists for the purposes of this subdivision, the administrative hearing commission shall take into consideration the existing circumstances, including, but not limited to, the following factors:

a. Whether the franchise agreement specifically permits the franchisor to approve or disapprove any proposed sale or transfer;

b. Whether the interest to be sold or transferred when added to any other interest owned by the proposed transferee constitutes fifty percent or more of the ownership interest in the franchise;

c. Whether the proposed transferee fails to satisfy any standards of the franchisor which are in fact normally relied upon by the franchisor prior to its entering into a franchise, and which related to the proposed management or ownership of the franchise operations or to the

qualification, capitalization, integrity or character of the proposed transferee which are reasonable;

d. Injury to the public welfare;

e. The harm to the franchisor;

(8) To prevent by contract or otherwise any motor vehicle franchisee from changing the executive management of the motor vehicle franchisee's business, except that any attempt by a motor vehicle franchisor to demonstrate by giving reasons that such change in executive management will be detrimental to the distribution of the motor vehicle franchisor's motor vehicles shall not constitute a violation of this subdivision;

(9) To impose unreasonable standards of performance upon a motor vehicle franchisee;

(10) To require a motor vehicle franchisee at the time of entering into a franchise arrangement to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by sections 407.810 to 407.835;

(11) To prohibit directly or indirectly the right of free association among motor vehicle franchisees for any lawful purpose;

(12) To provide any term or condition in any lease or other agreement ancillary or collateral to a franchise, which term or condition directly or indirectly violates the provisions of sections 407.810 to 407.835;

(13) Upon any termination, cancellation or refusal to continue any franchise or any discontinuation of any line-make or parts or products related to such line-make by a franchisor, fail to pay reasonable compensation to a franchisee as follows:

(a) Any new, undamaged and unsold vehicle in the franchisee's inventory of either the current model year or purchased from the franchisor within one hundred twenty days prior to receipt of a notice of termination or nonrenewal, provided the vehicle has less than five hundred miles registered on the odometer, including mileage incurred in delivery from the franchisor or in transporting the vehicle between dealers for sale, at the dealer's net acquisition cost, plus any cost to the dealer for returning the vehicle inventory to the franchisor;

(b) The franchisee's cost of each new, unused, undamaged and unsold part or accessory if the part or accessory is in the current parts catalog, less applicable allowances, plus five percent of the catalog price of the part for the cost of packing and returning the part to the franchisor. In the case of sheet metal, a comparable substitute for the original package may be used. Reconditioned or core parts shall be valued at their core value, the price listed in the current parts catalog or the amount paid for expedited return of core parts, whichever is higher. If the part or accessory was purchased by the franchisee from an outgoing authorized franchisee, the franchisor shall purchase the part for either the price in the current parts catalog or the franchisee's actual purchase price of the part, whichever is less. In the case of parts which no longer appear in the current parts catalog, the franchisor may purchase the part for either the price in the last version of the parts catalog in which the part appeared or the franchisee's actual purchase price of the part, whichever is less. The franchisee shall maintain accurate records regarding the actual purchase price of parts bought from an outgoing authorized franchisee. In the absence of such records, the franchisor is not required to purchase parts which are not in the current parts catalog;

(c) The depreciated value determined pursuant to generally accepted accounting principles of each undamaged sign owned by the franchisee which bears a trademark or trade name used or claimed by the franchisor if the sign was purchased from, or purchased at the request of, the franchisor;

(d) The fair market value of all special tools, data processing equipment and automotive service equipment owned by the franchisee which were recommended in writing and designated as special tools and equipment and purchased from, or purchased at the request of, the franchisor within three years of the termination of the franchise, if the tools and equipment are in usable and good condition, except for reasonable wear and tear;

(e) Except as provided in paragraph (a) of this subdivision, the cost of transporting, handling, packing, storing and loading of any property subject to repurchase pursuant to this section shall not exceed reasonable and customary charges; and

(f) The franchisor shall pay the franchisee the amounts specified in this subdivision within ninety days after the tender of the property subject to the franchisee providing evidence of good and clear title upon return of the property to the franchisor. The franchisor shall remove the property within one hundred eighty days after the tender of the property from the franchisee's property. Unless previous arrangements have been made and agreed upon, the franchisee is under no obligation to provide insurance for the property left after one hundred eighty days;

(14) To prevent or refuse to honor the succession to a franchise or franchises by any legal heir or devisee under the will of a franchisee, under any written instrument filed with the franchisor designating any person as the person's successor franchisee, or pursuant to the laws of descent and distribution of this state; provided:

(a) Any designated family member of a deceased or incapacitated franchisee shall become the succeeding franchisee of such deceased or incapacitated franchisee if such designated family member gives the franchisor written notice of such family member's intention to succeed to the franchise or franchises within one hundred twenty days after the death or incapacity of the franchisee, and agrees to be bound by all of the terms and conditions of the current franchise agreement, and the designated family member meets the current reasonable criteria generally applied by the franchisor in qualifying franchisees. A franchisee may request, at any time, that the franchisor provide a copy of such criteria generally applied by the franchisor in qualifying franchisees;

(b) The franchisor may request from a designated family member such personal and financial data as is reasonably necessary to determine whether the existing franchise agreement should be honored. The designated family member shall supply the personal and financial data promptly upon the request;

(c) If the designated family member does not meet the reasonable criteria generally applied by the franchisor in qualifying franchisees, the discontinuance of the current franchise agreement shall take effect not less than ninety days after the date the franchisor serves the required notice on the designated family member pursuant to subsection 4 of section 407.822;

(d) The provisions of this subdivision shall not preclude a franchisee from designating any person as the person's successor by written instrument filed with the franchisor, and if such an instrument is filed, it alone shall determine the succession rights to the management and operation of the franchise; and

(e) For determining whether good cause exists, the administrative hearing commission shall take into consideration the existing circumstances, including, but not limited to, the following factors:

a. Whether the franchise agreement specifically permits the franchisor to approve or disapprove any successor;

b. Whether the proposed successor fails to satisfy any standards of the franchisor which are in fact normally relied upon by the franchisor prior to the successor entering into a franchise, and which relate to the proposed management or ownership of the franchise operation or to the qualification, capitalization, integrity or character of the proposed successor and which are reasonable;

c. Injury to the public welfare;

d. The harm to the franchisor;

(15) To coerce, threaten, intimidate or require a franchisee under any condition affecting or related to a franchise agreement, or to waive, limit or disclaim a right that the franchisee may have pursuant to the provisions of sections 407.810 to 407.835. Any contracts or agreements which contain such provisions shall be deemed against the public policy of the state of Missouri and are void and unenforceable. Nothing in this section shall prohibit voluntary settlement agreements;

(16) To initiate any act enumerated in this subsection on grounds that it has advised a franchisee of its intention to discontinue representation at the time of a franchisee change or require any franchisee to enter into a site control agreement as a condition to initiating any act enumerated in this subsection. Such condition shall not be construed to nullify an existing site control agreement for a franchisee's property[.];

(17) To require, coerce, or attempt to coerce any franchisee in this state to refrain from, or to terminate, cancel, or refuse to continue any franchise based upon participation by the franchisee in the management of, investment in or the acquisition of a franchise for the sale of any other line of new vehicle or related products in the same or separate facilities as those of the franchisor. This subdivision does not apply unless the franchisee maintains a reasonable line of credit for each make or line of new vehicle, the franchisee remains in compliance with the franchise and any reasonable facilities requirements of the franchisor, and no change is made in the principal management of the franchisee. The reasonable facilities requirement shall not include any requirement that a franchisee establish or maintain exclusive facilities, personnel, or display space, when such requirements or any of them would not otherwise be justified by reasonable business considerations. Before the addition of a line-make to the dealership facilities the franchisee must first request consent of the franchisor, if required by the franchise agreement. Any decision of the franchisor with regard to dualing of two or more franchises shall be granted or denied within sixty days of a written request from the new vehicle dealer. The franchisor's failure to respond timely to a dualing request shall be deemed to be approval of the franchisee's request;

(18) To fail or refuse to offer to sell to all franchisees for a line-make every motor vehicle sold or offered for sale to any franchisee of that line-make. However, the failure to deliver any such motor vehicle shall not be considered a violation of this section if the failure is not arbitrary, or is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause over which the franchisor has no control. A franchisor may impose reasonable requirements on the franchisee including, but not limited to, the purchase of reasonable quantities of advertising materials, the purchase of special tools required to properly service a motor vehicle, the undertaking of sales person or service person training related to the motor vehicle, the meeting of reasonable display and facility requirements as a condition of receiving a motor vehicle, or other reasonable requirements; provided, that if a franchisor requires a franchisee to purchase essential service tools with a purchase price in the aggregate of more than seventy-five hundred dollars in order to receive a particular model of new motor vehicle, the franchisor shall upon written request provide such franchisee with a good faith estimate in writing of the number of vehicles of that particular model that the franchisee will be allocated during that model year in which the tools are required to be purchased.

407.826. NEW MOTOR VEHICLE DEALERSHIP, RESTRICTIONS ON OPERATION OF OR OWNERSHIP BY A FRANCHISOR. — 1. (1) A franchisor shall be prohibited from owning or operating a new motor vehicle dealership in this state. It is not a violation of this section for a franchisor to own or operate a new motor vehicle dealership:

(a) For a temporary period of not more than twenty- four months if the dealership is for sale at a reasonable price and on reasonable terms and conditions to an independent qualified buyer. On showing by a franchisor of good cause, the time limit set forth above may be extended for an additional period of up to twelve months; or

(b) In a bona fide relationship with an independent person (i) who is required to make a significant investment in the new motor vehicle dealership subject to loss and (ii) operates the dealership and can reasonably expect to acquire full ownership of the dealership within a reasonable time and under reasonable terms and conditions.

(2) Nothing in this section shall be deemed to prohibit a franchisor from owning a minority interest in an entity that owns motor vehicle dealerships of the same line-make manufactured and franchised by the factory, provided that all of the following conditions are met at the time of acquisition and continue to be met during the time the entity maintains ownership:

(a) The interest owned by the factory in said entity shall not exceed forty-five percent of the total ownership;

(b) Any dealership in which the entity owns an interest shall be no less than nine miles of any unaffiliated new motor vehicle dealership trading in the same line-make of vehicle;

(c) All of the licensed dealerships for the sale of such factory's new motor vehicle in the state trade exclusively in the factory's line-make;

(d) During any period in which the entity has such ownership interest, the factory shall have no more than four franchise agreements governing such line-make with dealers licensed to do business in this state;

(e) All the factory's franchise agreements confer rights on the franchisee of the line-make to develop and operate, within a defined geographic territory or area, as many dealership facilities as the franchisee and factory shall agree are appropriate;

(f) At the time the entity first acquires an ownership interest, not fewer than seventy-five percent of the franchisees of the line-make within this state own and operate two or more dealership facilities in the geographic territory or area covered by the franchise agreement with the factory;

(g) As of January 1, 2001, there were no more than ten dealerships of such line-make licensed as a new motor vehicle dealer in this state; and

(h) Prior to the effective date of this subsection, the factory has been continuously engaged, at least since July 1, 1998, in the retail sale of motor vehicles of its own line-make through direct or indirect ownership of dealerships in at least five states.

2. A franchisor shall not sell new motor vehicles directly to any retail consumer except through a franchisee for the line-make that includes the new motor vehicle unless such consumer is an employee of the franchisor, or is a not-for-profit organization or an agency of the federal, state or local governments. This subsection shall not preclude a franchisor from providing information to consumers for the purpose of marketing or facilitating the sale of a new motor vehicle or from establishing programs to sell or offer to sell new motor vehicles through participating franchisees.

3. The remedies and relief available pursuant to section 407.835 shall apply to this section.

407.828. FRANCHISOR'S DUTIES TO FRANCHISEE — SCHEDULE OF COMPENSATION — CLAIMS PAYMENT. — 1. Each franchisor shall specify in writing to each of its franchisees in this state the franchisee's obligations for preparation, delivery, and warranty service on its products. The franchisor shall compensate the franchisee for warranty service required of the franchisee by the franchisor. The franchisor shall provide the franchisee with the schedule of compensation to be paid to the franchisee for parts, work and service, and the time allowance for the performance of the work and service.

2. The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation pursuant to this section, the principal factor to be given consideration shall be the prevailing wage rates being paid by franchisees in the community in which the franchisee is doing business, and in no event shall the compensation of a franchisee for warranty

labor be less than the rates charged by the franchisee for like service to retail customers for nonwarranty service and repairs, provided that such rates are reasonable.

3. A franchisor shall not:

- (1) Fail to perform any warranty obligation;
- (2) Fail to include in written notices of franchisor recalls to new motor vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; or
- (3) Fail to compensate any of the franchisees in this state for repairs effected by the recall.

4. All claims made by a franchisee pursuant to this section for labor and parts shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claims not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within thirty days. A claim which has been approved and paid may not be charged back to the franchisee unless the franchisor can show that the claim was fraudulent, false, or unsubstantiated, except that a charge back for false or fraudulent claims shall not be made more than two years after payment, and a charge back for unsubstantiated claims shall not be made more than fifteen months after payment. A franchise shall maintain all records of warranty repairs, including the related time records of its employees, for at least two years following payment of any warranty claim.

5. A franchisor shall compensate the franchisee for franchisor-sponsored sales or service promotion events, programs, or activities in accordance with established guidelines for such events, programs, or activities.

6. All claims made by a franchisee pursuant to subsection 5 for promotion events, programs, or activities shall be paid within ten days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of this form shall be considered to be approved and payment shall be made within thirty days. The franchisor has the right to charge back any claim for twelve months after the later of either the close of the promotion event, program, or activity, or the date of the payment.

407.1320. DEFINITIONS. — As used in sections 407.1320 to 407.1346, the following terms shall mean:

- (1) "Area of sales responsibility", the geographical area agreed to by the dealer and manufacturer in the RV manufacturer/dealer agreement in which the dealer has the exclusive right to sell those vehicles identified in the dealer agreement;
 - (2) "Camping trailer", a vehicle mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use;
 - (3) "Dealer", any person, firm, corporation or business entity that engages in selling new recreation vehicles pursuant to a signed RV manufacturer/dealer agreement with a manufacturer and is licensed to conduct business in this state;
 - (4) "Distributor", any person, firm, corporation or business entity that purchases new RVs for resale to RV dealers;
 - (5) "Factory campaign", an effort on the part of a warrantor to contact recreation vehicle owners and/or dealers in order to address a part and/or equipment issues;
 - (6) "Family member", a spouse, child, grandchild, parent, sibling, niece, nephew and spouse of any of the above;
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(7) "Fifth wheel trailer", a vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as to not require a special highway movement permit, of gross trailer area not to exceed 400 square feet (37.2m²) in the set-up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle;

(8) "Good cause", for purposes of determining whether there is "good cause" for a proposed action, the following factors shall be considered:

- (a) The extent of the affected dealer's penetration in the relevant market area;
- (b) The nature and extent of the dealer's investment in its business;
- (c) The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;

- (d) The effect of the proposed action on the community;
- (e) The extent and quality of the dealer's service under RV warranties; and
- (f) The dealer's performance under the terms of its RV dealer agreement;

(9) "Line-make", a group of recreation vehicles that have all of the following characteristics:

- (a) They are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer or distributor of those recreation vehicles; and

- (b) They are targeted to a particular market segment, as determined by their decor, features, equipment, weight, size and price range; and

- (c) They are all of a single, distinct classification of recreation vehicle product type having a substantial degree of commonality in construction of chassis, frame, and body; and

- (d) They are all of the same model that is distinguishable by length and interior floor plan from other recreation vehicles within the same product type, notwithstanding the fact that the model may share some or most of the same decor, features, equipment, weight, and price range; and

- (e) The dealer is specifically authorized to sell as new that particular line-make and model of recreation vehicle under the terms of the dealer's existing agreement with the manufacturer or distributor of that recreation vehicle;

(10) "Manufacturer", any person, firm, corporation or business entity that engages in the manufacturing of recreation vehicles;

(11) "Motorhome", a vehicle which is designed to provide temporary living quarters and which:

- (a) Is built onto as an integral part of, or permanently attached to, a motor vehicle chassis; and

- (b) Contains at least four of the following independent life systems if each is permanently installed and designed to be removed only for purposes of repair or replacement and meets the American National Standards Institute standards for recreation vehicles:

- a. A cooking facility with an onboard fuel source;
- b. A gas or electric refrigerator;
- c. A toilet with exterior evacuation;
- d. A heating or air conditioning system with an onboard power or fuel source separate from the vehicle engine;
- e. A potable water supply system that includes at least a sink, a faucet, a water tank with an exterior service supply connection;
- f. A 110-125 volt electric power supply;

(c) The three basic types of motorhomes are specified as follows:

a. Type A: a raw chassis upon which is built a driver's compartment and an entire body which provides temporary living quarters as defined above;

b. Type B: a completed van-type vehicle which has been altered to provide temporary living quarters as defined above;

c. Type C: an incomplete vehicle, upon which is permanently attached a body designed to provide temporary living quarters as defined above;

(12) "Proprietary part", any part manufactured by or for and sold exclusively by the manufacturer;

(13) "Recreation vehicle", a vehicle primarily designed as temporary living quarters for recreational, camping, travel or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle. The product types are: travel trailer, fifth wheel trailer, camping trailer, truck camper and motorhome;

(14) "Transient customer", customers who are temporarily traveling through a dealer's area of sales responsibility;

(15) "Travel trailer", a vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as to not require a special highway movement permit when towed by a motorized vehicle, and of gross trailer area not to exceed three hundred twenty square feet (29.7m²);

(16) "Truck Camper", a portable unit constructed to provide temporary living quarters for recreational, travel or camping use consisting of a roof, floor and sides designed to be loaded onto and unloaded from the bed of a pickup truck;

(17) "Warrantor", any person, firm, corporation or business entity that gives a warranty in connection with a new recreation vehicle or parts, accessories or components thereof. Such term does not include service contracts, mechanical or other insurance, or "extended warranties" sold for separate consideration by a dealer or other person not controlled by a manufacturer.

407.1323. RECREATIONAL VEHICLE MANUFACTURERS AND DEALERS, WRITTEN AGREEMENT REQUIRED, WHEN — SALES OF RVs, CONDITIONS. — 1. All manufacturers and dealers doing business in this state must have a written agreement signed by both parties. This law shall supercede any conflicting statutes in states where enacted.

2. The manufacturer shall designate in writing subject to annual review the area of sales responsibility exclusively assigned to an RV dealer and shall not establish another RV dealer for the same line-make in the same area during the duration of the agreement unless the manufacturer can show good cause for the addition of the new RV dealer including reasonable evidence that the market will support the establishment of a new dealership.

3. Sales of RVs by manufacturers or distributors shall be in accordance with published prices, charges and terms of sale in effect at any given time. The manufacturer will sell products on the same basis, with respect to all rebates, discounts and programs, to all competing dealers similarly situated.

4. No manufacturer, directly or through any officer, agent or employee, may terminate an RV dealer agreement without good cause. The burden of showing good cause is on the manufacturer. Prior to the expiration of a dealer agreement, both parties shall enter into negotiations for renewal of the dealer agreement in good faith, and neither will arbitrarily require a substantial change in competitive circumstances. When taking on a competing manufacturer's lines, a dealer must notify existing manufacturers in writing, at least thirty days prior to entering into such an agreement, to sell the same type of recreational vehicle.

407.1326. TERMINATION NOTICE, REQUIREMENTS, CONTENTS. — 1. Except as provided in this section, a manufacturer shall provide an RV dealer at least one hundred

twenty days prior written notice of termination. The notice shall state all the reasons for termination and shall further state that if, within thirty days following receipt of the manufacturer's notice, the RV dealer provides to the manufacturer a written notice of intent to cure all claimed deficiencies, the RV dealer will then have one hundred twenty days from the date of the manufacturer's notice to rectify such deficiencies. If the deficiency is rectified within one hundred twenty days, the manufacturer's notice shall be void. However, if the RV dealer fails to provide the notice of intent to cure deficiencies in the proscribed time period, the termination shall take effect thirty days after the RV dealer's receipt of the manufacturer's notice unless the dealer has new and untitled inventory on hand in which case, if requested by the dealer, it will take effect upon the sale of the remaining inventory but in no event later than one hundred twenty days from the manufacturer's notice of termination.

2. The one hundred twenty day notice may be reduced to thirty days notice if the grounds for termination is due to:

(1) Conviction of or pleas of nolo contendere to a felony of an RV dealer, or one of its owners;

(2) The business operations of the RV dealer have been abandoned or closed for ten consecutive business days unless the closing is due to an act of god, strike or labor difficulty, or other cause over which the dealer has no control;

(3) A material misrepresentation by the RV dealer; or

(4) The suspension, revocation, or refusal to renew the RV dealer's license.

3. The notice provisions of this section shall not apply if the reason for termination, is insolvency, the occurrence of an assignment for the benefit of creditors or bankruptcy.

4. A dealer may terminate its dealer agreement at any time by giving written notice of such intention to manufacturer at least thirty days prior to the effective date specified for termination.

407.1329. REPURCHASE UPON TERMINATION OF AGREEMENT. — If the RV dealer agreement is terminated, canceled or not renewed by the manufacturer for cause, the manufacturer shall, at the election of the RV dealer, within thirty days of termination, repurchase:

(1) (a) All new, untitled current model year recreation vehicle inventory, acquired from the manufacturer, which has not been used (except for demonstration purposes), altered or damaged to the extent that such damage must be disclosed to the consumer pursuant to section 407.1343, at one hundred percent of the net invoice cost, including transportation, less applicable rebates and discounts to the dealer; and

(b) All new, untitled recreation vehicle inventory of the prior model year, acquired from the manufacturer, provided the prior model year vehicles have not been altered, used (except for demonstration purposes) or damaged to the extent that such damage must be disclosed to the consumer pursuant to section 407.1343, and were drafted on the dealer's financing source or paid within one hundred twenty days prior to the effective date of the termination, cancellation, or nonrenewal.

In the event any of the vehicles repurchased pursuant to this subdivision are damaged, but do not trigger the consumer disclosure requirement, the amount due the dealer shall be reduced by the cost to repair the vehicle. Damage prior to delivery to dealer that is disclosed at the time of delivery will not disqualify repurchase under this provision;

(2) All current and undamaged manufacturer's accessories and proprietary parts sold to the dealer for resale, if accompanied by the original invoice, at one hundred five percent of the original net price paid to the manufacturer to compensate the dealer for handling, packing, and shipping the parts; and

(3) Any fully and correctly functioning diagnostic equipment, special tools, current signage and other equipment and machinery, at one hundred percent of the dealer's net

cost plus freight, destination, delivery and distribution charges and sales taxes, if any, provided it was purchased by the dealer within five years before termination and upon the manufacturer's request and can no longer be used in the normal course of the dealer's ongoing business. Manufacturer shall pay dealer within thirty days of receipt of the returned items.

407.1332. CHANGE IN OWNERSHIP, NOTICE — REJECTION OF CHANGE, NOTICE. — 1. If a recreation vehicle dealer desires to make a change in its ownership by the sale of the business assets, stock transfer, or otherwise, the recreation vehicle dealer must give the manufacturer thirty days written notice prior to the closing including all supporting documentation as may be required by the manufacturer. The manufacturer shall not refuse to agree to such proposed change or sale and may not disapprove or withhold approval of such change or sale unless the manufacturer can show that its decision is based on manufacturer's reasonable criteria, which may include the prospective transferee's business experience, moral character, financial qualifications and any criminal record.

2. If the manufacturer rejects a proposed change or sale, the manufacturer shall give written notice of its reasons to the recreation vehicle dealer within thirty days after receipt of the dealer notification and complete documentation. If no such notice is given to the recreation vehicle dealer, the change or sale shall be deemed approved.

3. The manufacturer shall have the burden in showing that its rejection of the transfer or sale is reasonable.

407.1335. SUCCESSION IN DEALERSHIPS, CONDITIONS, RESTRICTIONS AND PROHIBITIONS. — It is unlawful for any manufacturer to fail to provide a dealer an opportunity to designate, in writing, a member of the dealer's family as a successor to the dealership in the event of the death, incapacity, or retirement of the dealer. It shall be unlawful to prevent or refuse to honor the succession to a dealership by a member of the family of the deceased, retired or incapacitated dealer unless the manufacturer has provided to the dealer written notice of its objections. Grounds for objection shall be lack of creditworthiness, conviction of a felony, lack of required licenses or business experience or other conditions which make such succession unreasonable under the circumstances, but the manufacturer shall bear the burden of showing the unreasonableness of such succession. However, no member of the family may succeed to an RV dealership if the succession to the RV dealership involves, without the manufacturer's consent, a relocation of the business or an alteration of the terms and conditions of the written agreement.

407.1338. WARRANTY SERVICE, WARRANTOR TO PROVIDE WRITTEN OBLIGATIONS — COMPENSATION OF DEALER FOR WARRANTY SERVICE, SUBMISSION OF WARRANTY CLAIMS, PROCEDURE. — 1. Each warrantor shall specify in writing to each of its RV dealers, obligations, if any, for preparation, delivery and warranty service on its products; shall compensate the dealer for warranty service required of the dealer by the warrantor; and shall provide the dealer the schedule of compensation to be paid; and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work as well as warranty labor.

2. Time allowances for the diagnosis and performance of warranty labor shall be reasonable for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the actual wage rates being paid by the dealer, and the actual retail labor rate being charged by the dealers in the community in which the dealer is doing business. In no event shall such compensation of a dealer for warranty labor be less than the lowest

retail labor rates actually charged by the dealer for like nonwarranty labor as long as such rates are reasonable.

3. The warrantor shall reimburse dealer for warranty parts at actual wholesale cost, plus a minimum thirty percent handling charge and the cost, if any, of freight to return warranty parts to the warrantor.

4. Warranty audits of dealer records may be conducted by the warrantor on a reasonable basis, and dealer claims for warranty compensation shall not be denied except for cause, such as performance of nonwarranty repairs, material non-compliance with warrantors published policies and procedures, lack of material documentation, fraud, or misrepresentation.

5. Dealer must submit warranty claims within thirty days of completing work.

6. Dealer must notify the warrantor verbally or in writing if the RV dealer is unable to perform material or repetitive warranty repairs as soon as reasonably possible.

7. Warrantor must disapprove warranty claims in writing within thirty days of the date of submission by the dealer in the manner and form prescribed by the warrantor. Claims not specifically disapproved in writing within thirty days shall be construed to be approved and shall be paid within forty-five days.

8. It is a violation of this chapter for any warrantor to:

(1) Fail to perform any of its warranty obligations with respect to its warranted product;

(2) Fail to include in written notices of factory campaigns to vehicle owners and dealers the expected date by which necessary parts and equipment, including tires and chassis or chassis parts, will be available to dealers to perform the campaign work. The manufacturer may ship parts in quantity to the dealer to effect such campaign work, and if such parts are in excess of the dealer's requirements, the dealer may return unused parts to the manufacturer for credit after completion of the campaign;

(3) Fail to compensate any of its RV dealers for authorized repairs effected by such dealer of merchandise damaged in manufacture or transit to the dealer, if the carrier is designated by the manufacturer, factory branch, distributor or distributor branch;

(4) Fail to compensate its RV dealers for authorized warranty service in accordance with the schedule of compensation provided the dealer pursuant section 407.1338, if performed in a timely and competent manner;

(5) Intentionally misrepresent in any way to purchasers of RVs that warranties with respect to the manufacture, performance or design of the vehicle are made by the dealer either as warrantor or co-warrantor; or

(6) Require the dealer to make warranties to customers in any manner related to the manufacture of the RV.

9. It is a violation of this chapter for any RV dealer to:

(1) Fail to perform "pre-delivery inspection" (PDI) functions, if required, in a competent and timely manner;

(2) Fail to perform warranty service work, authorized by the warrantor, in a reasonably timely and competent manner on any transient customer's vehicle whether sold by that dealer or not;

(3) Misrepresent the terms of any warranty.

407.1340. VIOLATION OF DEALER AGREEMENT. — Notwithstanding the terms of any RV manufacturer/dealer agreement, it shall be a violation of this chapter for:

(1) Any warrantor to fail to indemnify and hold harmless its dealer against any losses or damages, to the extent such losses or damages are caused by the negligence or willful misconduct of the warrantor. The dealer shall provide to the warrantor a copy of pending suits in which allegations are made that come within this subsection within ten days of receiving such suit;

(2) Any dealer to fail to indemnify and hold harmless its warrantor against any losses or damages, to the extent such losses or damages are caused by the negligence or willful misconduct of the dealer. The warrantor shall provide to the dealer a copy of pending suits in which allegations are made that come within this subsection within ten days of receiving such suit.

407.1343. DAMAGE TO NEW RVs, WRITTEN DISCLOSURE TO DEALER REQUIRED, WHEN — REVERSION OF OWNERSHIP TO MANUFACTURER OR DISTRIBUTOR, WHEN. — 1. On any new RV, any uncorrected, significant damage or any corrected damage exceeding five hundred dollars or ten percent of the dealer's invoice, whichever is greater, must be disclosed to the dealer in writing prior to delivery. The dealer is responsible for disclosing such damage to the consumer in writing and must obtain a written acknowledgment of such damage from the consumer. A copy of the consumer's acknowledgment must be provided to the manufacturer. Factory or dealer repairs to glass, tires, wheels, bumpers, audio/video equipment, in-dash components, instrument panels, decorating items, appliances, furniture and components, are excluded from disclosure when properly replaced by substantially similar manufacturer's or distributor's original equipment, materials or parts.

2. Whenever a new RV is damaged prior to transit to the dealer, or is damaged in transit to the dealer when the carrier or means of transportation has been determined by the manufacturer, or distributor, the dealer shall:

(1) Notify the manufacturer or distributor of such damage by the next business day after the date of delivery of such new RVs to the new RV dealership or within such additional time as specified in the RV manufacturer/dealer agreement; and

(2) Either:

(a) Request from the manufacturer or distributor authorization to replace the components, parts and accessories damaged or otherwise correct the damage; or

(b) Reject the vehicle by the next business day after delivery.

3. If the manufacturer or distributor refuses or fails to authorize repair of such damage within ten days after receipt of notification, or if the dealer rejects the RV because of damage, ownership of the new RV shall revert to the manufacturer or distributor. Dealer will exercise due care in custody, but the RV dealer shall have no other obligations, financial or otherwise, with respect to such RV.

407.1346. NEW RV DEALERSHIP, RESTRICTIONS ON OPERATION OR OWNERSHIP BY A MANUFACTURER. — 1. A manufacturer shall be prohibited from owning or operating a new RV dealership in this state. It is not a violation of this section for a manufacturer to own or operate a new RV dealership:

(1) For a temporary period of not more than sixty months if the dealership is for sale at a reasonable price and on reasonable terms and conditions to an independent qualified buyer; or

(2) In a bona fide relationship with an independent person who:

(a) Is required to make a significant investment in the new RV dealership subject to loss; and

(b) Operates the dealership and can reasonably expect to acquire full ownership of the dealership within a reasonable time and under reasonable terms and conditions; or

(3) If the manufacturer has no other dealers of the same line-make in this state.

2. Nothing in this section shall be deemed to prohibit a manufacturer from owning a minority interest in an entity that owns RV dealerships of the same line- make manufactured and sold through dealers in this state by the manufacturer, provided that all of the following conditions are met at the time of acquisition and continue to be met during the time the entity maintains ownership:

(1) The interest owned by the manufacturer in said entity shall not exceed forty-five percent of the total ownership;

(2) All the manufacturer's dealer agreements confer rights on the dealer of the line-make to develop and operate, within a defined geographic territory or area, in as many dealership facilities as the dealer and manufacturer shall agree are appropriate.

3. Subsections 1 and 2 of this section shall not apply to manufacturers that own or operate an RV dealership in this state as of August 28, 2001.

SECTION B. EFFECTIVE DATE. — The provisions of sections 407.1320 to 407.1346 shall be effective on August 1, 2002.

Approved July 13, 2001

HB 590 [HB 590]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Places administration of tax credits for ADA compliance by small businesses under joint administration of the directors of Revenue and Economic Development.

AN ACT to repeal section 135.490, RSMo 2000, relating to tax relief for small employers, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

135.490. Eligible small business to receive tax credit for efforts to comply with Americans With Disabilities Act, amount — joint administration of tax credit.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 135.490, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 135.490, to read as follows:

135.490. ELIGIBLE SMALL BUSINESS TO RECEIVE TAX CREDIT FOR EFFORTS TO COMPLY WITH AMERICANS WITH DISABILITIES ACT, AMOUNT — JOINT ADMINISTRATION OF TAX CREDIT. — 1. In order to encourage and foster community improvement, an eligible small business, as defined in Section 44 of the Internal Revenue Code, shall be allowed a credit not to exceed five thousand dollars against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of all eligible access expenditures exceeding the monetary cap provided by Section 44 of the Internal Revenue Code. For purposes of this section, "eligible access expenditures" means amounts paid or incurred by the taxpayer in order to comply with applicable access requirements provided by the Americans With Disabilities Act of 1990, as further defined in Section 44 of the Internal Revenue Code and federal rulings interpreting Section 44 of the Internal Revenue Code.

2. The tax credit allowed by this section shall be claimed by the taxpayer at the time such taxpayer files a return. Any amount of tax credit which exceeds the tax due shall be carried over to any subsequent taxable year, but shall not be refunded and shall not be transferable.

3. The **director of the department of economic development and the director of the department of revenue shall jointly administer the tax credit authorized by this section. Both the director of the department of economic development and the director of the**

department of revenue [shall] are authorized to promulgate rules and regulations **necessary** to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The provisions of this section shall become effective on January 1, 2000, and shall apply to all taxable years beginning after December 31, 1999.

Approved July 10, 2001

HB 596 [HB 596]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies the allowed consolidation between the Planned Industrial Expansion Authority and the Land Clearance for Redevelopment Authority in St. Louis City.

AN ACT to repeal section 100.331, RSMo 2000, relating to certain governmental authorities in cities not within a county, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

100.331. Commissioners, number reduced, appointment, terms, qualifications, vacancies — consolidation plan authorized (St. Louis City).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 100.331, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 100.331, to read as follows:

100.331. COMMISSIONERS, NUMBER REDUCED, APPOINTMENT, TERMS, QUALIFICATIONS, VACANCIES — CONSOLIDATION PLAN AUTHORIZED (ST. LOUIS CITY). — 1. Notwithstanding the provisions of section 100.330 or any other provision of law to the contrary, beginning August 28, 2000, the number of commissioners in any city not within a county shall be five; provided that, by the process of attrition the number of commissioners shall be reduced from fifteen to five by the expiration of the terms of currently serving commissioners and nonreplacement of any vacancies. Commissioners shall be appointed for a term of four years each. All commissioners shall be appointed by the mayor of any such city, shall be taxpayers of the city, and shall have resided in the city for five years immediately prior to their appointment. All vacancies shall be filled by the mayor of the city for the unexpired term, subsequent to the time the number of commissioners is reduced to five by attrition.

2. At any time, the governing body of a city not within a county may adopt a plan of consolidation to combine the planned industrial expansion authority of such city with the land [reutilization] **clearance for redevelopment** authority of such city.

Approved June 29, 2001

HB 600 [HB 600]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes conveyance between board of governors of Southwest Missouri State University and Southwest Missouri Ecumenical Center.

AN ACT to authorize the conveyance of certain property between the board of governors of Southwest Missouri State University and the Southwest Missouri Ecumenical Center.

SECTION

1. Conveyance of property by Southwest Missouri State University to Southwest Missouri Ecumenical Center.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY SOUTHWEST MISSOURI STATE UNIVERSITY TO SOUTHWEST MISSOURI ECUMENICAL CENTER. — 1. The board of governors of Southwest Missouri State University is hereby authorized to convey by warranty deed or other appropriate instrument, as the board determines appropriate, its right, title and interest in the following described real estate identified as Tract I to Southwest Missouri Ecumenical Center, in consideration of a similar conveyance to the board of governors of Southwest Missouri State University of a similarly-sized tract of land owned by Southwest Missouri Ecumenical Center, identified as Tract II, both tracts located west of National Avenue and north of Monroe Street, in Springfield, Greene County, Missouri:

Tract I:

Comprised of Lots 42, 41, and the South 20.18 feet of Lot 40 of Biggs and Gray's Subdivision and being more particularly described as follows:

Beginning at the Southwest corner of Lot 42 said; thence along the East right-of-way of Florence, North 01 50'37" East, 125.42 feet; thence parallel with the South line of Lot 42, South 88 45'25" East, 145.04 feet, to the West line of a 15 foot alley; thence South 01 47'39" West, 125.42 feet, to the Southeast corner of Lot 42; thence along the South line of Lot 42, North 88 46'43" West, 145.15 feet, to the point of beginning. Containing 0.418 acres more or less.

Tract II:

Comprised of Lots 50 and 51 of Biggs and Gray's Subdivision and being more particularly described as follows:

Beginning at the Southeast corner of Lot 51 said point lying on the West right-of-way of National Avenue; thence North 88 45'52" West, 175.25 feet, to the Southwest corner of Lot 51; thence North 01 47'39" East, 103.89 feet, to the Northwest corner of Lot 50; thence South 88 44'58" East, 175.13 feet, to the Northeast corner of Lot 50; thence South 01 43'35" West, 103.84 feet, to the point of beginning. Containing 0.418 acres more or less.

2. The attorney general shall approve as to form the instrument of conveyance.

Approved July 10, 2001

HB 603 [SCS HB 603]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes an Alzheimer's Awareness Day and requires minimum dementia-specific training requirements for persons who care for individuals with dementia.

AN ACT to repeal section 660.050, RSMo 2000, relating to the department of health and senior services, and to enact in lieu thereof five new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 9.160. Alzheimer's Awareness Day proclaimed, when.
- 192.002. Department of health and senior services established.
- 660.050. Division of aging created — duties — inspectors of nursing homes, training and continuing education requirements — promulgation of rules, procedure — dementia-specific training requirements established.
- 660.060. Transfer of division of aging to the department of health and senior services.
- 660.062. State board of senior services created, members, terms, duties.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 660.050, RSMo 2000, is repealed and five new sections enacted in lieu thereof, to be known as sections 9.160, 192.002, 660.050, 660.060 and 660.062, to read as follows:

9.160. ALZHEIMER'S AWARENESS DAY PROCLAIMED, WHEN. — The governor shall annually issue a proclamation setting apart the second Tuesday of March as "Alzheimer's Awareness Day", and recommending to the people of the state that the day be appropriately observed through activities which will increase awareness of Alzheimer's disease and related dementias.

192.002. DEPARTMENT OF HEALTH AND SENIOR SERVICES ESTABLISHED. — The department of health shall be known as the "Department of Health and Senior Services".

660.050. DIVISION OF AGING CREATED — DUTIES — INSPECTORS OF NURSING HOMES, TRAINING AND CONTINUING EDUCATION REQUIREMENTS — PROMULGATION OF RULES, PROCEDURE — DEMENTIA-SPECIFIC TRAINING REQUIREMENTS ESTABLISHED. — 1. The "Division of Aging" is hereby [created and established as a division of the department of social services] **transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974.** The division shall aid and assist the elderly and low-income handicapped adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The division shall regulate adult long-term care facilities [under] **pursuant to** the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these facilities.

2. In addition to its duties and responsibilities enumerated [under] **pursuant to** other provisions of law, the division shall:

(1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73, (42 U.S.C. 3001, et seq.), as amended;

(2) Assure that an information and referral system is developed and operated for the elderly, including information on the Missouri care options program;

(3) Provide technical assistance, planning and training to local area agencies on aging;

(4) Contract with the federal government to conduct surveys of long-term care facilities certified for participation in the Title XVIII program;

(5) Serve as liaison between the department of [social services] **health and senior services** and the Federal Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the United States Department of Health and Human Services;

(6) Conduct medical review (inspections of care) activities such as utilization reviews, independent professional reviews, and periodic medical reviews to determine medical and social needs for the purpose of eligibility for Title XIX, and for level of care determination;

(7) Certify long-term care facilities for participation in the Title XIX program;

(8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for Supplemental Security Income recipients in long-term care facilities and serve as the liaison between the Social Security Administration and the department of [social services] **health and senior services** concerning Supplemental Security Income beneficiaries;

(9) Review plans of proposed long-term care facilities before they are constructed to determine if they meet applicable state and federal construction standards;

(10) Provide consultation to long-term care facilities in all areas governed by state and federal regulations;

(11) Serve as the central state agency with primary responsibility for the planning, coordination, development, and evaluation of policy, programs, and services for elderly persons in Missouri consistent with the provisions of subsection 1 of this section and serve as the designated state unit on aging, as defined in the Older Americans Act of 1965;

(12) With the advice of the governor's advisory council on aging, develop long-range state plans for programs, services, and activities for elderly and handicapped persons. State plans should be revised annually and should be based on area agency on aging plans, statewide priorities, and state and federal requirements;

(13) Receive and disburse all federal and state funds allocated to the division and solicit, accept, and administer grants, including federal grants, or gifts made to the division or to the state for the benefit of elderly persons in this state;

(14) Serve, within government and in the state at large, as an advocate for elderly persons by holding hearings and conducting studies or investigations concerning matters affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to assure their rights to apply for and receive services and to be given fair hearings when such services are denied;

(15) Provide information and technical assistance to the governor's advisory council on aging and keep the council continually informed of the activities of the division;

(16) After consultation with the governor's advisory council on aging, make recommendations for legislative action to the governor and to the general assembly;

(17) Conduct research and other appropriate activities to determine the needs of elderly persons in this state, including, but not limited to, their needs for social and health services, and to determine what existing services and facilities, private and public, are available to elderly persons to meet those needs;

(18) Maintain [a clearinghouse for] **and serve as a clearinghouse for up-to-date information and technical assistance** related to the needs and interests of elderly persons **and persons with Alzheimer's disease or related dementias**, including information on the Missouri care options program, **dementia-specific training materials and dementia-specific trainers. Such dementia-specific information and technical assistance shall be maintained and provided in consultation with agencies, organizations and/or institutions of higher learning with expertise in dementia care;**

(19) Provide area agencies on aging with assistance in applying for federal, state, and private grants and identifying new funding sources;

(20) Determine area agencies on aging annual allocations for Title XX and Title III of the Older Americans Act expenditures;

(21) Provide transportation services, home delivered and congregate meals, in-home services, counseling and other services to the elderly and low-income handicapped adults as designated in the Social Services Block Grant Report, through contract with other agencies, and shall monitor such agencies to ensure that services contracted for are delivered and meet standards of quality set by the division;

(22) Monitor the process pursuant to the federal Patient Self-determination Act, 42 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients concerning durable powers of attorney and living wills.

3. The division director, subject to the supervision of the director of the department of [social services] **health and senior services**, shall be the chief administrative officer of the division and shall exercise for the division the powers and duties of an appointing authority [under] **pursuant to** chapter 36, RSMo, to employ such administrative, technical and other personnel as may be necessary for the performance of the duties and responsibilities of the division.

4. The division may withdraw designation of an area agency on aging only when it can be shown the federal or state laws or rules have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or the elderly are not receiving appropriate services within available resources, and after consultation with the director of the area agency on aging and the area agency board. Withdrawal of any particular program of services may be appealed to the director of the department of [social services] **health and senior services** and the governor. In the event that the division withdraws the area agency on aging designation in accordance with the Older Americans Act, the division shall administer the services to clients previously performed by the area agency on aging until a new area agency on aging is designated.

5. Any person hired by the department of [social services] **health and senior services** after August 13, 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198, RSMo, shall complete at least one hundred hours of basic orientation regarding the inspection process and applicable rules and statutes during the first six months of employment. Any such person shall annually, on the anniversary date of employment, present to the department evidence of having completed at least twenty hours of continuing education in at least two of the following categories: communication techniques, skills development, resident care, or policy update. The department of [social services] **health and senior services** shall by rule describe the curriculum and structure of such continuing education.

6. The division may issue and promulgate rules to enforce, implement and effectuate the powers and duties established in sections 198.070 and 198.090, RSMo, and sections 660.050, 660.250 and 660.300 to 660.320. [No rule or portion of a rule promulgated under the authority of this chapter and sections 198.070 and 198.090, RSMo, shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

7. Missouri care options is a program, operated and coordinated by the division of aging, which informs individuals of the variety of care options available to them when they may need long-term care.

8. The division shall, by January 1, 2002, establish minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by skilled nursing facilities, intermediate care facilities, residential care facilities, agencies providing in-home care services authorized by the division of aging, adult daycare programs, independent contractors providing direct care to persons with Alzheimer's disease or related dementias and the division of aging. Such training shall be incorporated into new employee orientation and on-going in-service curricula for all employees involved in the care of

persons with dementia. The department of health shall, by January 1, 2002, establish minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by home health and hospice agencies licensed by chapter 197, RSMo. Such training shall be incorporated into the home health and hospice agency's new employee orientation and on-going in-service curricula for all employees involved in the care of persons with dementia. The dementia training need not require additional hours of orientation or on-going in-service. Training shall include at a minimum, the following:

(1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues;

(2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia. As used in this subsection, the term "employee" includes persons hired as independent contractors. The training requirements of this subsection shall not be construed as superceding any other laws or rules regarding dementia-specific training.

660.060. TRANSFER OF DIVISION OF AGING TO THE DEPARTMENT OF HEALTH AND SENIOR SERVICES. — All authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging shall be transferred to the department of health and senior services.

660.062. STATE BOARD OF SENIOR SERVICES CREATED, MEMBERS, TERMS, DUTIES. — 1. There is hereby created a "State Board of Senior Services" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate. No member of the state board of senior services shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of senior services shall be from the same political party.

2. Each member shall be appointed for a term of four years; except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years and one for a term of four years. The successors of each shall be appointed for full terms of four years. No person may serve on the state board for senior services for more than two terms. The terms of all members shall continue until their successors have been duly appointed and qualified. One of the persons appointed to the state board for senior services shall be a person currently working in the field of gerontology. One of the persons appointed to the state board for senior services shall be a physician with expertise in geriatrics. One of the persons appointed to the state board for senior services shall be a person with expertise in nutrition. One of the persons appointed to the state board for senior services shall be a person with expertise in rehabilitation services of persons with disabilities. One of the persons appointed to the state board for senior services shall be a person with expertise in mental health issues. In making the two remaining appointments, the governor shall give consideration to individuals having a special interest in gerontology or disability-related issues, including senior citizens. Four of the seven members appointed to the state board of senior services shall be members of the governor's advisory council on aging. If a vacancy occurs in the appointed membership, the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The members shall receive actual and necessary expenses plus twenty-five dollars per day for each day of actual attendance.

3. The board shall elect from among its membership a chairman and a vice chairman, who shall act as chairman in his or her absence. The board shall meet at the call of the chairman. The chairman may call meetings at such times as he or she deems advisable, and shall call a meeting when requested to do so by three or more members of the board.

4. The state board of senior services shall advise the department of health and senior services in the:

- (1) Promulgation of rules and regulations by the department of health and senior services;
- (2) Formulation of the budget for the department of health and senior services; and
- (3) Planning for and operation of the department of health and senior services.

Approved June 26, 2001

HB 606 [SCS HB 606]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes and standardizes certain provisions regarding county recorders of deeds.

AN ACT to repeal sections 59.310 and 59.313, RSMo 2000, relating to county recorders of deeds, and to enact in lieu thereof three new sections relating to the same subject, with an effective date.

SECTION

- A. Enacting clause.
- 59.005. Definitions.
- 59.313. Recorder's fees (St. Louis City) — page, defined — size of type or print — signature requirements.
- 59.310. Documents for recording — page, defined — size of type or print — signature requirements — recorder's fee.
- 59.310. Documents for recording — page, defined — size of type or print — signature requirements.
- 59.313. Recorder's fees (St. Louis City) — page, defined — size of type or print — signature requirements.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 59.310 and 59.313, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 59.005, 59.310 and 59.313, to read as follows:

59.005. DEFINITIONS. — As used in this chapter, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Document" or "instrument", any writing or drawing presented to the recorder of deeds for recording;
 - (2) "File", "filed" or "filing", the act of delivering or transmitting a document to the recorder of deeds for recording into the official public record;
 - (3) "Grantor" or "grantee", the names of the parties involved in the transaction used to create the recording index;
 - (4) "Legal description", includes but is not limited to the lot or parts thereof, block, plat or replat number, plat book and page and the name of any recorded plat or a metes and bounds description with acreage, if stated in the description, or the quarter/quarter
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section, and the section, township and range of property, or any combination thereof. The address of the property shall not be accepted as legal description;

(5) "Legible", all text, seals, drawings, signatures or other content within the document must be capable of producing a clear and readable image from record, regardless of the process used for recording;

(6) "Page", any writing, printing or drawing printed on one side only covering all or part of the page, not larger than eight and one-half inches in width and eleven inches in height for pages other than a plat or survey;

(7) "Record", "recorded" or "recording", the recording of a document into the official public record, regardless of the process used;

(8) "Recorder of deeds", the separate recorder of deeds in those counties where separate from the circuit clerk and the circuit clerk and ex officio recorder of deeds in those counties where the offices are combined.

59.313. RECORDER'S FEES (ST. LOUIS CITY) — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS. — 1. The recorder of deeds in a city not within a county may refuse any document presented for recording that does not meet the following requirements:

(1) The document shall consist of one or more individual pages not permanently bound nor in a continuous form. The document shall not have any attachment stapled or otherwise affixed to any page except as necessary to comply with statutory requirements, provided that a document may be stapled together for presentation for recording; a label that is firmly attached with a bar code or return address may be accepted for recording;

(2) The size of print or type shall not be smaller than eight-point type and shall be in black or dark ink. Should any document presented for recording contain type smaller than eight-point type, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(3) The document must be of sufficient legibility to produce a clear and legible reproduction thereof. Should any document not be of sufficient legibility to produce a clear and legible reproduction, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(4) The document shall be on white or light-colored paper of not less than twenty-pound weight without watermarks or other visible inclusions, except for plats and surveys, which may be on materials such as mylar or velum. All text within the document shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable;

(5) All signatures on a document shall be in black or dark ink, such that such signatures shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable, and shall have the corresponding name typed, printed or stamped underneath said signature. The typing or printing of any name or the applying of an embossed or inked stamp shall not cover or otherwise materially interfere with any part of the document, except where provided for by law;

(6) Every document, except plats and surveys, shall have a top margin of at least three inches of vertical space from left to right, to be reserved for the recorder of deeds' certification and use. All other margins on the document shall be a minimum of three-fourths of one inch on all sides. Nonessential information such as form numbers, page numbers or customer notations may be placed in the margin. A document may be recorded if a minor portion of a seal or incidental writing extends beyond the margins.

The recorder of deeds will not incur any liability for not showing any seal or information that extends beyond the margins of the permanent archival record.

2. Every document containing any of the items listed in this subsection that is presented for recording, except plats and surveys, shall have such information on the first page below the three inch horizontal line:

- (1) The title of the document;
- (2) The date of the document;
- (3) All grantors' names;
- (4) All grantees' names;
- (5) Any statutory addresses;
- (6) The legal description or descriptions of the property; and
- (7) Reference book and page for statutory requirements, if applicable.

If there is not sufficient room on the first page for all the required information, the page reference within the document where the information is set out shall be placed on the first page.

3. From January 1, 2002, documents which do not meet the requirements set forth in this section may be recorded for an additional fee of twenty-five dollars, which shall be deposited in the recorders' fund established pursuant to subsection 1 of section 59.319.

4. Documents which are exempt from format requirements and which the recorder of deeds may record include the following:

- (1) Documents which were signed prior to January 1, 2002;
- (2) Military separation papers;
- (3) Documents executed outside the United States;
- (4) Certified copies of documents, including birth and death certificates;
- (5) Any document where one of the original parties is deceased or otherwise incapacitated; and
- (6) Judgments or other documents formatted to meet court requirements.

5. Any document rejected by a recorder of deeds shall be returned to the preparer or presenter accompanied by an explanation of the reason it could not be recorded.

6. Recorder of deeds shall be allowed fees for their services as follows:

- (1) For recording every deed or instrument: ten dollars for the first page and five dollars for each page thereafter;
 - (2) For copying or reproducing any recorded instrument, except surveys and plats: three dollars for the first page and two dollars for each page thereafter;
 - (3) For every certificate and seal, except when recording an instrument: two dollars;
 - (4) For recording a plat or survey of a subdivision, outlots or condominiums: forty-four dollars for each sheet of drawings and calculations based on a size of not to exceed twenty-four inches in width by eighteen inches in height, plus ten dollars for each page of other materials;
 - (5) For recording a survey of one tract of land, in the form of one sheet not to exceed twenty-four inches in width by eighteen inches in height: eight dollars;
 - (6) For copying a plat or survey: eight dollars for each page;
 - (7) For every certified copy of a marriage license or application for a marriage license: five dollars;
 - (8) For releasing on the margin: eight dollars for each item released;
 - (9) For a document which releases or assigns more than one item: seven dollars and fifty cents for each item beyond one released or assigned in addition to any other charges which may apply; and
 - (10) For duplicate reels of microfilm: thirty dollars each. For all other use of equipment, personnel services and office space the recorder of deeds shall set attendant fees.
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59.310. DOCUMENTS FOR RECORDING — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS — RECORDER'S FEE. — 1. The county recorder of deeds may refuse any document presented for recording that does not meet the following requirements:

(1) The document shall consist of one or more individual pages printed only on one side and not permanently bound nor in a continuous form. The document shall not have any attachment stapled or otherwise affixed to any page except as necessary to comply with statutory requirements, provided that a document may be stapled together for presentation for recording; a label that is firmly attached with a bar code or return address may be accepted for recording;

(2) The size of print or type shall not be smaller than eight-point type and shall be in black or dark ink. Should any document presented for recording contain type smaller than eight-point type, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(3) The document must be of sufficient legibility to produce a clear and legible reproduction thereof. Should any document not be of sufficient legibility to produce a clear and legible reproduction, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(4) The document shall be on white paper or light-colored of not less than twenty-pound weight without watermarks or other visible inclusions, except for plats and surveys, which may be on materials such as mylar or velum. All text within the document shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable;

(5) All signatures on a document shall be in black or dark ink, such that such signatures shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable, and shall have the corresponding name typed, printed or stamped underneath said signature. The typing or printing of any name or the applying of an embossed or inked stamp shall not cover or otherwise materially interfere with any part of the document except where provided for by law;

(6) The documents shall have a top margin of at least three inches of vertical space from left to right, to be reserved for the recorder of deeds' certification and use. All other margins on the document shall be a minimum of three-fourths of one inch on all sides. Nonessential information such as form numbers, page numbers or customer notations may be placed in the margin. A document may be recorded if a minor portion of a seal or incidental writing extends beyond the margins. The recorder of deeds will not incur any liability for not showing any seal or information that extends beyond the margins of the permanent archival record.

2. Every document containing any of the items listed in this subsection that is presented for recording, except plats and surveys, shall have such information on the first page below the three-inch horizontal margin:

- (1) The title of the document;
- (2) The date of the document;
- (3) All grantors' names;
- (4) All grantees' names;
- (5) Any statutory addresses;
- (6) The legal description of the property; and
- (7) Reference book and pages for statutory requirements, if applicable.

If there is not sufficient room on the first page for all of the information required by this subsection, the page reference within the document where the information is set out shall be stated on the first page.

3. From January 1, 2002, documents which do not meet the requirements set forth in this section may be recorded for an additional fee of twenty-five dollars, which shall be deposited in the recorders' fund established pursuant to subsection 1 of section 59.319.

4. Documents which are exempt from format requirements and which the recorder of deeds may record include the following:

- (1) Documents which were signed prior to January 1, 2002;
- (2) Military separation papers;
- (3) Documents executed outside the United States;
- (4) Certified copies of documents, including birth and death certificates;
- (5) Any document where one of the original parties is deceased or otherwise incapacitated; and
- (6) Judgments or other documents formatted to meet court requirements.

5. Any document rejected by a recorder of deeds shall be returned to the preparer or presenter accompanied by an explanation of the reason it could not be recorded.

6. Recorder of deeds shall be allowed fees for their services as follows:

(1) For recording every deed or instrument: five dollars for the first page and three dollars for each page thereafter except for plats and surveys;

(2) For copying or reproducing any recorded instrument, except surveys and plats: a fee not to exceed two dollars for the first page and one dollar for each page thereafter;

(3) For every certificate and seal, except when recording an instrument: one dollar;

(4) For recording a plat or survey of a subdivision, outlets or condominiums: twenty-five dollars for each sheet of drawings or calculations based on a size not to exceed twenty-four inches in width by eighteen inches in height. For recording a survey of one or more tracts: five dollars for each sheet of drawings or calculations based on a size not to exceed twenty-four inches in width by eighteen inches in height. Any plat or survey larger than eighteen inches by twenty-four inches shall be counted as an additional sheet for each additional eighteen inches by twenty-four inches, or fraction thereof, plus five dollars per page of other material;

(5) For copying a plat or survey of one or more tracts: a fee not to exceed five dollars for each sheet of drawings and calculations not larger than twenty-four inches in width and eighteen inches in height and one dollar for each page of other material;

(6) For a document which releases or assigns more than one item: five dollars for each item beyond one released or assigned in addition to any other charges which may apply;

(7) For every certified copy of a marriage license or application for a marriage license: two dollars;

(8) For duplicate copies of the records in a medium other than paper, the recorder of deeds shall set a reasonable fee not to exceed the costs associated with document search and duplication; and

(9) For all other use of equipment, personnel services and office facilities, the recorder of deeds may set a reasonable fee.

[59.310. DOCUMENTS FOR RECORDING — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS. — 1. As used in this section, "page" means any writing, printing or drawing covering all or part of one side of a paper, other than a plat, not larger than 8 1/2 inches x 14 inches, or of a plat not larger than 18 inches x 24 inches, with the following conditions:

(1) Should sufficient space not be provided for the necessary recording information and certification on a document, said recording information and certification shall be placed on an added sheet and such sheet shall be counted as a page;

(2) The size of print or type on any document to be recorded shall not be smaller than 8 point. Should any document to be recorded contain type smaller than 8 point, such document

must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document;

(3) The document must be of sufficient legibility so as to produce a clear and legible reproduction thereof. Should a document not be of sufficient legibility so as to produce a clear and legible reproduction, such document must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document;

(4) Any attachment which extends the length of the page, and any deed or document larger than 8 1/2 inches x 14 inches, other than a plat or survey, shall be counted as an additional page for each additional 8 1/2 inches x 14 inches or fraction thereof. Any plat or survey larger than 18 inches x 24 inches shall be counted as an additional page for each additional 18 inches x 24 inches or fraction thereof.

2. Any signature on a document shall have the corresponding name typed, printed or stamped underneath said signature.

3. Recorders shall be allowed fees for their services as follows:

(1) For recording every deed or instrument: \$5.00 for the first page and \$3.00 for each page thereafter;

(2) For copying or reproducing any recorded instrument except surveys or plats: a fee not to exceed \$2.00 for the first page and \$1.00 for every page thereafter;

(3) For every certificate and seal, except when recording an instrument: \$1.00;

(4) For recording a plat or survey of a subdivision, outlots or condominiums: \$25.00 for each page of drawings and calculations plus \$5.00 for each page of other material;

(5) For recording a survey of one tract of land, in the form of one page: \$5.00 per page;

(6) For copying a plat or survey: a fee not to exceed \$5.00 for each page;

(7) For every certified copy of a marriage license or application for a marriage license: \$2.00. The only additional fee over and above this is the \$1.00 state user fee on all documents that convey real estate, and a 25-cent fee for identifying each note to an instrument when a document is recorded that creates a lien against the real estate.]

[59.313. RECORDER'S FEES (ST. LOUIS CITY) — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS. — 1. As used in this section for recording in the office of the recorder of deeds of any city not within a county, "page" means any writing, printing or drawing covering all or part of one side of a paper, other than a plat not larger than 8 1/2 inches x 14 inches, or of a plat not larger than 18 x 24 inches, with the following conditions:

(1) Should sufficient space not be provided for the necessary recording information and certification on a document, said recording information and certification shall be placed on an added sheet and such sheet shall be counted as a page;

(2) The size of print or type on any document to be recorded shall not be smaller than 8 point. Should any document to be recorded contain type smaller than 8 point, such document must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document. Such additional documents shall be recorded at the same cost as an original;

(3) The document must be of sufficient legibility so as to produce a clear and legible reproduction thereof. Should a document not be of sufficient legibility so as to produce a clear and legible reproduction, such document must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document;

(4) Any attachment which extends the length of the page, and any deed or document larger than 8 1/2 inches x 14 inches, other than a plat or survey, shall be counted as an additional page for each additional 8 1/2 inches x 14 inches or fraction thereof. Any plat or survey larger than 18 inches x 24 inches shall be counted as an additional page for each additional 18 inches x 24 inches or fraction thereof.

2. Any signature on a document shall have the corresponding name typed, printed or stamped underneath the signature.

3. The recorder of deeds in any city not within a county shall be allowed fees for his services as follows:

(1) For recording every deed or instrument: \$10.00 for the first page and \$5.00 for each page thereafter;

(2) For copying or reproducing any recorded instrument, except surveys and plats: \$3.00 for the first page and \$2.00 for each page thereafter;

(3) For every certificate and seal, except when recording an instrument: \$2.00;

(4) For recording a plat or survey of a subdivision, outlots or condominiums: \$44.00 for each page of drawings and calculations plus \$10.00 for each page of other materials;

(5) For recording a survey of one tract of land, in the form of one page: \$8.00;

(6) For copying a plat or survey: \$8.00 for each page;

(7) For every certified copy of a marriage license or application for a marriage license: \$5.00;

(8) For releasing on the margin: \$8.00 for each item released;

(9) For a document which releases or assigns more than one item: \$7.50 for each item beyond one released or assigned in addition to any other charges which may apply; and

(10) For duplicate reels of microfilm: \$30.00 each. For all other personnel services, use of equipment and use of office space the recorder of deeds shall set attendant fees.]

SECTION B. EFFECTIVE DATE. — The enactment of section 59.005 and the repeal and reenactment of sections 59.310 and 59.313 shall become effective January 1, 2002.

Approved July 13, 2001

HB 607 [SCS HB 607]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes limitation of permitted gratuitous services by out-of-state dentists to summer camps.

AN ACT to repeal section 332.072, RSMo 2000, relating to dental services, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

SECTION

A. Enacting clause.

332.072. Gratuitous dental services, dentists and dental hygienists licensed in other states may perform, when — prohibited, when — dental hygiene services, supervision required, when.

B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 332.072, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 332.072, to read as follows:

332.072. GRATUITOUS DENTAL SERVICES, DENTISTS AND DENTAL HYGIENISTS LICENSED IN OTHER STATES MAY PERFORM, WHEN — PROHIBITED, WHEN — DENTAL HYGIENE SERVICES, SUPERVISION REQUIRED, WHEN. — Notwithstanding any other provision of law to the contrary, any qualified dentist who is legally authorized to practice pursuant to the laws of another state may practice as a dentist in this state without examination by the board or

payment of any fee and any qualified dental hygienist who is a graduate of an accredited dental hygiene school and legally authorized to practice pursuant to the laws of another state may practice as a dental hygienist in this state without examination by the board or payment of any fee, if such dental or dental hygiene practice consists solely of the provision of gratuitous dental or dental hygiene services provided [for a summer camp] for a period of not more than fourteen days in any one calendar year. Dentists and dental hygienists who are currently licensed in other states and have been refused licensure by the state of Missouri or previously been licensed by the state, but are no longer licensed due to suspension or revocation shall not be allowed to provide gratuitous dental services within the state of Missouri. Any dental hygiene services provided pursuant to this section shall be performed under the supervision of a dentist providing dental services pursuant to this section or a dentist licensed to practice dentistry in Missouri.

SECTION B. EMERGENCY CLAUSE. — Because of the immediate need for adequate dental care for the public, section 332.072 is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 332.072 shall be in full force and effect upon its passage and approval.

Approved June 13, 2001

HB 621 [CCS HB 621]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates Missouri State Penitentiary Redevelopment Commission.

AN ACT to amend chapter 217, RSMo, relating to the department of corrections by adding thereto one new section creating the Missouri state penitentiary redevelopment commission.

SECTION

A. Enacting clause.

217.900. Missouri state penitentiary redevelopment commission created — qualification of members — no elected official may serve, chairperson appointed by governor.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 217, RSMo, is amended by adding thereto one new section, to be known as section 217.900, to read as follows:

217.900. MISSOURI STATE PENITENTIARY REDEVELOPMENT COMMISSION CREATED — QUALIFICATION OF MEMBERS — NO ELECTED OFFICIAL MAY SERVE, CHAIRPERSON APPOINTED BY GOVERNOR. — 1. There is hereby established the "Missouri State Penitentiary Redevelopment Commission".

2. The commission shall consist of ten commissioners who shall be qualified voters of the state of Missouri. Three commissioners, no more than two of whom shall belong to the same political party, shall be residents of Jefferson City and shall be appointed by the mayor of that city with the advise and consent of the governing body of that city; three commissioners, no more than two of whom shall belong to the same political party, shall be residents of Cole County but not of Jefferson City and shall be appointed by the county commission; and four commissioners, no more than three of whom shall belong to the same political party, none of whom shall be residents of Cole County or of Jefferson City,

shall be appointed by the governor with the advice and consent of the senate. The governor shall appoint one of the commissioners who is not a resident of Cole County or Jefferson City to be the chair of the commission. No elected official of the state of Missouri or of any city or county in this state shall be appointed to the commission.

3. The commissioners shall serve for terms of three years, except that the first person appointed by each the mayor, the county commission and the governor shall serve for two years and the second person appointed by the governor shall serve for four years. Each commissioner shall hold office until a successor has been appointed and qualified. In the event a vacancy exists or in the event a commissioner's term expires, a successor commissioner shall be appointed by whomever appointed the commissioner who initially held the vacant positions and if no person is so selected within sixty days of the creation of the vacancy, the unexpired term of such commissioner may be filled by a majority vote of the remainder of the commissioners, provided such successor commissioner shall meet the requirements set forth by this section. Pending any such appointment to fill any vacancy, the remaining commissioners may conduct commission business. Commissioners shall serve without compensation but shall be entitled to reimbursement from the Missouri state penitentiary redevelopment commission fund established in subsection 7 of this section for expenses incurred in conducting the commission's business.

4. The commission shall have the following powers:

(1) To acquire title to the property historically utilized as the Missouri state penitentiary and to acquire by gift or bequest from public or private sources property adjacent thereto and necessary or appropriate to the successful redevelopment of the Missouri state penitentiary property;

(2) To lease or sell real property to developers who will utilize the property consistent with the master plan for the property;

(3) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(4) To hire employees necessary to perform the commission's work;

(5) To contract and to be contracted with, including, but without limitation, the authority to enter into contracts with cities, counties and other political subdivisions, agencies of the state of Missouri and public agencies pursuant to sections 70.210 to 70.325, RSMo, and otherwise, and to enter into contracts with other entities, in connection with the acquisition by gift or bequest and in connection with the planning, construction, financing, leasing, subleasing, operation and maintenance of any real property or facility and for any other lawful purpose, and to sue and to be sued;

(6) To receive for its lawful activities any rentals, proceeds from the sale of real estate, contributions or moneys appropriated or otherwise designated for payment to the authority by municipalities, counties, state or other political subdivisions or public agencies or by the federal government or any agency or officer thereof or from any other sources and to apply for grants and other funding;

(7) To disburse funds for its lawful activities and fix salaries and wages of its employees;

(8) To invest any of the commission's funds in such types of investments as shall be determined by a resolution adopted by the commission;

(9) To borrow money for the acquisition, construction, equipping, operation, maintenance, repair, remediation or improvement of any facility or real property to which the commission holds title and for any other proper purpose, and to issue negotiable notes, bonds and other instruments in writing as evidence of sums borrowed;

(10) To perform all other necessary and incidental functions, and to exercise such additional powers as shall be conferred by the general assembly; and

(11) To purchase insurance, including self-insurance, of any property or operations of the commission or its members, directors, officers and employees, against any risk or

hazard, and to indemnify its members, agents, independent contractors, directors, officers and employees against any risk or hazard.

5. In no event shall the state be liable for any deficiency or indebtedness incurred by the commission.

6. The income of the commission and all properties any time owned by the authority shall be exempt from all taxation in the state of Missouri.

7. There is hereby created in the state treasury the "Missouri State Penitentiary Redevelopment Commission Fund", which shall consist of money collected pursuant to this section. The fund shall be administered by the Missouri state penitentiary redevelopment commission. Money in the fund shall be used solely for the purposes of the Missouri state penitentiary redevelopment commission.

8. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund shall be transferred to the general revenue fund, and any appropriation made to the fund shall not lapse. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Interest and moneys earned on such investments shall be credited to the fund.

9. Upon the dissolving of the commission, any funds remaining in the Missouri State Penitentiary Commission Fund shall be transferred to the general revenue fund.

Approved July 12, 2001

HB 644 [SCS HB 644]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a presumption that a beneficiary designation is unaffected by a subsequent dissolution or annulment.

AN ACT to repeal section 461.073, RSMo 2000, relating to nonprobate transfers, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

461.073. Scope and application of law.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 461.073, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 461.073, to read as follows:

461.073. SCOPE AND APPLICATION OF LAW. — 1. Subject to the provisions of section 461.079, sections 461.003 to 461.081 apply to a nonprobate transfer on death if at the time the owner designated the beneficiary:

- (1) The owner was a resident of this state;
- (2) The obligation to pay or deliver arose in this state or the property was situated in this state; or
- (3) The transferring entity was a resident of this state or had a place of business in this state or the obligation to make the transfer was accepted in this state.

2. The direction for a nonprobate transfer on death of the owner and the obligation to execute the nonprobate transfer remain subject to the provisions of sections 461.003 to 461.081 despite a subsequent change in the beneficiary, in the rules of the transferring entity under which

the transfer is to be executed, in the residence of the owner, in the residence or place of business of the transferring entity or in the location of the property.

3. Sections 461.003 to 461.045 and 461.059 to 461.065 do not apply to accounts or deposits in financial institutions unless the provisions of sections 461.003 to 461.081 are incorporated into the certificate, account or deposit agreement in whole or in part by express reference.

4. Sections 461.003 to 461.081 apply to transfer on death directions given to a personal custodian under the Missouri personal custodian law to the extent that they do not conflict with section 404.560, RSMo.

5. Sections 461.003 to 461.045 and 461.059 to 461.065 do not apply to certificates of ownership or title issued by the director of revenue.

6. Sections 461.003 to 461.045, **461.051** and 461.059 to 461.081 do not apply to property, money or benefits paid or transferred at death pursuant to a life or accidental death insurance policy, annuity, contract, plan or other product sold or issued by a life insurance company unless the provisions of sections 461.003 to 461.081 are incorporated into the policy or beneficiary designation in whole or in part by express reference.

7. Sections 461.003 to 461.045 and 461.059 to 461.065 do not apply to any nonprobate transfer where the governing instrument or law expressly provides that the nonprobate transfers law of Missouri shall not apply.

8. Section 461.051 shall not apply to any employee benefit plan governed by 29 U.S.C. Section 1001 et seq.

Approved July 10, 2001

HB 648 [SCS HB 648, HB 477 & HB 805]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates alternative method of obtaining temporary driving permit.

AN ACT to repeal sections 302.130 and 302.178, RSMo 2000, relating to drivers' licenses, and to enact in lieu thereof two new sections relating to the same subject, with an emergency clause.

SECTION

A. Enacting clause.

302.130. Issuance of temporary instruction permit, when — requirements — duration — rulemaking authority.

302.178. Intermediate driver's license, issued to whom, requirements, limitations, fee, duration, point assessment — penalty, application for full driving privileges, requirements — exceptions — rulemaking authority, procedure.

B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 302.130 and 302.178, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 302.130 and 302.178, to read as follows:

302.130. ISSUANCE OF TEMPORARY INSTRUCTION PERMIT, WHEN — REQUIREMENTS — DURATION — RULEMAKING AUTHORITY. — 1. Any person at least fifteen years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the

director shall issue a temporary instruction permit entitling the applicant, while having such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of twelve months, but any such person, except when operating a motorcycle or motortricycle, must be accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, who is at least twenty-one years of age, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent [or], guardian, **a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program** who has a valid driver's license. Beginning January 1, 2001, an applicant for a temporary instruction permit shall successfully complete a vision test and a test of the applicant's ability to understand highway signs which regulate, warn or direct traffic and practical knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal guardian gives written permission by signing the application and in so signing, state they, or their designee as set forth in subsection 2 of this section, will provide a minimum of twenty hours of behind-the-wheel driving instruction. **The twenty hours of behind-the-wheel driving instruction that is completed pursuant to this subsection may include any time that the holder of an instruction permit has spent operating a motor vehicle in a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or by a qualified instructor of a private drivers' education program. If the applicant for a permit is enrolled in a federal residential job training program, the instructor, as defined in subsection 5 of this section, is authorized to sign the application stating that the applicant will receive the behind-the-wheel driving instruction required by this section.**

2. In the event the parent, grandparent or guardian of the person under sixteen years of age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian from being a qualified licensed operator pursuant to this section, said parent, grandparent or guardian may designate a maximum of two individuals authorized to accompany the applicant for the purpose of giving instruction in driving the motor vehicle. An authorized designee must be a licensed operator for the type of motor vehicle being operated and have attained twenty-one years of age. At least one of the designees must occupy the seat beside the applicant while giving instruction in driving the motor vehicle. The name of the authorized designees must be provided to the department of revenue by the parent, grandparent or guardian at the time of application for the temporary instruction permit. The name of each authorized designee shall be printed on the temporary instruction permit, however, the director may delay the time at which permits are printed bearing such names until the inventories of blank permits and related forms existing on August 28, 1998, are exhausted.

3. The director, upon proper application on a form prescribed by the director, in his or her discretion, may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a high school driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education even though the applicant has not reached the age of sixteen years but has passed the age of fifteen years. Such instruction permit shall entitle the applicant, when the applicant has such permit in his or her immediate possession, to operate a motor vehicle on the highways, but only when a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education is occupying a seat beside the driver.

4. The director, in his or her discretion, may issue a temporary driver's permit to an applicant who is otherwise qualified for a license permitting the applicant to operate a motor

vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

5. **In the event that the applicant for a temporary instruction permit described in subsection 1 of this section is a participant in a federal residential job training program, the permittee may operate a motor vehicle accompanied by a driver training instructor who holds a valid driver education endorsement issued by the department of elementary and secondary education and a valid driver's license.**

6. **A person at least fifteen years of age may operate a motor vehicle as part of a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program.**

7. The director may adopt rules and regulations necessary to carry out the provisions of this section.

302.178. INTERMEDIATE DRIVER'S LICENSE, ISSUED TO WHOM, REQUIREMENTS, LIMITATIONS, FEE, DURATION, POINT ASSESSMENT — PENALTY, APPLICATION FOR FULL DRIVING PRIVILEGES, REQUIREMENTS — EXCEPTIONS — RULEMAKING AUTHORITY, PROCEDURE. — 1. Beginning January 1, 2001, any person between the ages of sixteen and eighteen years who is qualified to obtain a license pursuant to sections 302.010 to 302.340, may apply for, and the director shall issue, an intermediate driver's license entitling the applicant, while having such license in his or her possession, to operate a motor vehicle of the appropriate class upon the highways of this state in conjunction with the requirements of this section. An intermediate driver's license shall be readily distinguishable from a license issued to those over the age of eighteen. All applicants for an intermediate driver's license shall:

- (1) Successfully complete the examination required by section 302.173;
- (2) Pay the fee required by subsection 3 of this section;
- (3) Have had a temporary instruction permit issued pursuant to subsection 1 of section 302.130 for at least a six-month period or a valid license from another state; and
- (4) **Have a parent, grandparent [or], legal guardian, or, if the applicant is a participant in a federal residential job training program, a driving instructor employed by a federal residential job training program,** sign the application stating that the applicant has completed at least twenty hours of supervised driving experience under a temporary instruction permit issued pursuant to subsection 1 of section 302.130, or, if the applicant is an emancipated minor, the person over twenty-one years of age who supervised such driving. For purposes of this section, the term "emancipated minor" means a person who is at least sixteen years of age, but less than eighteen years of age, who:

(a) Marries with the consent of the legal custodial parent or legal guardian pursuant to section 451.080, RSMo;

(b) Has been declared emancipated by a court of competent jurisdiction;

(c) Enters active duty in the armed forces;

(d) Has written consent to the emancipation from the custodial parent or legal guardian; or

(e) Through employment or other means provides for such person's own food, shelter and other cost-of-living expenses;

(5) Have had no alcohol-related enforcement contacts as defined in section 302.525 during the preceding twelve months; and

(6) Have no nonalcoholic traffic convictions for which points are assessed pursuant to section 302.302, within the preceding six months.

2. An intermediate driver's license grants the licensee the same privileges to operate that classification of motor vehicle as a license issued pursuant to section 302.177, except that no person shall operate a motor vehicle on the highways of this state under such an intermediate

driver's license between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person described in subsection 1 of section 302.130; except the licensee may operate a motor vehicle without being accompanied if the travel is to or from a school or educational program or activity, a regular place of employment or in emergency situations as defined by the director by regulation. Each intermediate driver's license shall be restricted by requiring that the driver and all passengers in the licensee's vehicle wear safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle.

3. Notwithstanding the provisions of section 302.177 to the contrary, the fee for an intermediate driver's license shall be five dollars and such license shall be valid for a period of two years.

4. Any intermediate driver's licensee accumulating six or more points in a twelve-month period may be required to participate in and successfully complete a driver-improvement program approved by the director of the department of public safety. The driver-improvement program ordered by the director of revenue shall not be used in lieu of point assessment.

5. (1) An intermediate driver's licensee who has, for the preceding twelve-month period, had no alcohol-related enforcement contacts, as defined in section 302.525 and no traffic convictions for which points are assessed, upon reaching the age of eighteen years may apply for and receive without further examination, other than a vision test as prescribed by section 302.173, a license issued pursuant to this chapter granting full driving privileges. Such person shall pay the required fee for such license as prescribed in section 302.177.

(2) The director of revenue shall deny an application for a full driver's license until the person has had no traffic convictions for which points are assessed for a period of twelve months prior to the date of application for license or until the person is eligible to apply for a six-year driver's license as provided for in section 302.177, provided the applicant is otherwise eligible for full driving privileges. An intermediate driver's license shall expire when the licensee is eligible and receives a full driver's license as prescribed in subdivision (1) of this section.

6. No person upon reaching the age of eighteen years whose intermediate driver's license and driving privilege is denied, suspended, canceled or revoked in this state or any other state, for any reason may apply for a full driver's license until such license or driving privilege is fully reinstated. Any such person whose intermediate driver's license has been revoked pursuant to the provisions of sections 302.010 to 302.540 shall, upon receipt of reinstatement of the revocation from the director, pass the complete driver examination, apply for a new license, and pay the proper fee before again operating a motor vehicle upon the highways of this state.

7. A person shall be exempt from the intermediate licensing requirements if the person has reached the age of eighteen years and meets all other licensing requirements.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

SECTION B. EMERGENCY CLAUSE. — Because proper driving instruction is important to creating safe drivers, sections 302.130 and 302.178 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared

to be an emergency act within the meaning of the constitution, and sections 302.130 and 302.178 of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2001

HB 660 [SCS HCS HB 660]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases certain benefits for members of the Public School Retirement System.

AN ACT to repeal sections 105.269, 160.420, 162.481, 169.070, 169.075, 169.270, 169.280, 169.291, 169.301, 169.315, 169.324, 169.410, 169.420, 169.430, 169.440, 169.450, 169.460, 169.462, 169.466, 169.471, 169.475, 169.476, 169.480, 169.490, 169.500, 169.510, 169.520, 169.540, 169.650 and 169.670, RSMo 2000, relating to certain public school retirement systems, and to enact in lieu thereof thirty new sections relating to the same subject, with an emergency clause for certain sections.

SECTION

- A. Enacting clause.
 - 105.269. Retired teacher, certain districts, may return to teaching without losing retirement benefits — rulemaking authority.
 - 160.420. Employment provisions — school district personnel may accept charter school position and remain district employees, effect — noncertificated instructional personnel, employment, supervision.
 - 162.481. Elections in urban districts — terms of directors — districts moving into urban class — annual elections to be held in urban and Springfield school districts.
 - 169.070. Retirement allowances, how computed, election allowed, time period — options — effect of federal O.A.S.I. coverage — cost-of-living adjustment authorized — limitation of benefits — employment of special consultant, compensation, minimum benefits.
 - 169.075. Survivors' benefits, options — purchase of prior service credits for previous service in another Missouri public school retirement system, cost — monthly retirement allowance — special consultant qualification, compensation, duties.
 - 169.270. Definitions.
 - 169.280. Retirement system created — system, how managed.
 - 169.291. Board of trustees, qualifications, terms — superintendent of school district to be member — vacancies — lapse of corporate organization, effect of — oaths — officers — expenses — powers and duties — medical board, appointment — contribution rates of employers, amount.
 - 169.301. Retirement benefits to vest, when — amount, how computed — option of certain members to transfer plans, requirements — retirant becoming active member, effect on benefits.
 - 169.315. Rules, regulations to permit purchase of creditable service, requirements — eligibility.
 - 169.324. Retirement allowances, minimum amounts — retirants may substitute without affecting allowance, limitation — annual determination of ability to provide benefits, standards — action plan for use of minority and women money managers, brokers and investment counselors.
 - 169.410. Definitions.
 - 169.420. Retirement system — how managed.
 - 169.430. Who shall be members.
 - 169.440. Years of service, how determined — purchase of credit for service, limitations and conditions.
 - 169.450. Trustees — selection, qualifications, powers and duties — circuit court's jurisdiction over board — board's authority to make rules for administering assets of system.
 - 169.460. Retirement, when — pensions, how computed — early retirement, when, pensions, how computed — disability retirement, when, pensions, how computed — death before retirement, effect of — beneficiary defined, benefits, how computed — retirants may become active, how — minimum benefits, when.
 - 169.462. Private school, defined — membership credit for service in private school, purchase, payment, requirements.
 - 169.466. Annual pension increase, when.
 - 169.471. Board of education authorized to increase pensions, adopt and implement additional plans.
 - 169.475. Retired member, employment as special advisor, duties, compensation — district to reimburse system, when.
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- 169.476. Insurance for retired members may be provided — rules and regulations.
- 169.480. Board to be trustees of funds — investment — income credited — payments, how made — current funds kept — duties of trustees.
- 169.490. Assets of system to be held as one fund — contribution, rate, how collected.
- 169.500. Certification of amount to be paid to retirement system, inclusion in annual budget estimates.
- 169.510. Obligations of system paid how — effect of change in law.
- 169.520. Funds not subject to execution, garnishment or attachment and not assignable — exceptions.
- 169.540. State shall contribute no funds — exceptions.
- 169.569. Joint rules promulgated, procedure.
- 169.650. Membership — prior service credit — reinstatement — procedure.
- 169.670. Benefits, how computed — beneficiary benefits, options, election of.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 105.269, 160.420, 162.481, 169.070, 169.075, 169.270, 169.280, 169.291, 169.301, 169.315, 169.324, 169.410, 169.420, 169.430, 169.440, 169.450, 169.460, 169.462, 169.466, 169.471, 169.475, 169.476, 169.480, 169.490, 169.500, 169.510, 169.520, 169.540, 169.650 and 169.670, RSMo 2000, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 105.269, 160.420, 162.481, 169.070, 169.075, 169.270, 169.280, 169.291, 169.301, 169.315, 169.324, 169.410, 169.420, 169.430, 169.440, 169.450, 169.460, 169.466, 169.471, 169.475, 169.476, 169.480, 169.490, 169.500, 169.510, 169.520, 169.540, 169.569, 169.650 and 169.670, to read as follows:

105.269. RETIRED TEACHER, CERTAIN DISTRICTS, MAY RETURN TO TEACHING WITHOUT LOSING RETIREMENT BENEFITS — RULEMAKING AUTHORITY. — 1. Any metropolitan school district [who has individuals who work in said district which are employed by the state of Missouri who participate in the volunteer tutoring program as provided in said section and which has at least a five percent shortage of certified teachers] may [apply to the department of elementary and secondary education for waivers to] allow retired teachers to teach in said metropolitan school district for up to [two] **four** years without losing his or her retirement benefits **or to teach or be an administrator in a charter school established pursuant to sections 160.400 to 160.420, RSMo, in said metropolitan school district without losing his or her retirement benefits.** Said retired teacher need not be in the teacher's salary scale. Said metropolitan school district shall place an emphasis on hiring retired teachers to teach in areas that include but are not limited to, improving student reading, which may include elementary remedial reading and the "Read to be Ready Program" as established under this act, math, science and special education.

2. The department of elementary and secondary education shall adopt rules to implement the provisions of this section.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section and section 167.640, RSMo, shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and section 167.640, RSMo, and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

160.420. EMPLOYMENT PROVISIONS — SCHOOL DISTRICT PERSONNEL MAY ACCEPT CHARTER SCHOOL POSITION AND REMAIN DISTRICT EMPLOYEES, EFFECT — NONCERTIFICATED INSTRUCTIONAL PERSONNEL, EMPLOYMENT, SUPERVISION. — 1. If a charter school offers to retain the services of an employee of a school district, and the employee accepts a position at the charter school, the contract between the charter school and the school district may provide that an employee at the employee's option may remain an employee of the

district and the charter school shall pay to the district the district's full costs of salary and benefits provided to the employee. A teacher who accepts a position at a charter school and opts to remain an employee of the district retains such teacher's permanent teacher status and seniority rights in the district. The school district shall not be liable for any such employee's acts while an employee of the charter school.

2. A charter school may employ noncertificated instructional personnel; provided that no more than twenty percent of the full-time equivalent instructional staff positions at the school are filled by noncertificated personnel. All noncertified instructional personnel shall be supervised by certified instructional personnel. The charter school shall ensure that all instructional employees of the charter school have experience, training and skills appropriate to the instructional duties of the employee, and the charter school shall ensure that a criminal background check and child abuse registry check are conducted for each employee of the charter school prior to the hiring of the employee. Appropriate experience, training and skills of noncertificated instructional personnel shall be determined considering:

- (1) Teaching certificates issued by another state or states;
- (2) Certification by the National Standards Board;
- (3) College degrees in the appropriate field;
- (4) Evidence of technical training and competence when such is appropriate; and
- (5) Level of supervision and coordination with certificated instructional staff.

3. Personnel employed by the charter school shall participate in the retirement system of the school district in which the charter school is located, subject to the same terms, conditions, requirements and other provisions applicable to personnel employed by the school district. **For purposes of participating in the retirement system, the charter school shall be considered to be a public school within the school district, and personnel employed by the charter school shall be public school employees. In the event of a lapse of the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, personnel employed by the charter school shall continue to participate in the retirement system and shall do so on the same terms, conditions, requirements and other provisions as they participated prior to the lapse.**

162.481. ELECTIONS IN URBAN DISTRICTS — TERMS OF DIRECTORS — DISTRICTS MOVING INTO URBAN CLASS — ANNUAL ELECTIONS TO BE HELD IN URBAN AND SPRINGFIELD SCHOOL DISTRICTS. — 1. Except as otherwise provided in this section, all elections of school directors in urban districts shall be held biennially at the same times and places as municipal elections.

2. In any urban district which includes all or the major part of a city which first obtained a population of more than seventy-five thousand inhabitants by reason of the 1960 federal decennial census, elections of directors shall be held on municipal election days of even-numbered years. The directors of the prior district shall continue as directors of the urban district until their successors are elected as herein provided. On the first Tuesday in April, 1964, four directors shall be elected, two for terms of two years to succeed the two directors of the prior district who were elected in 1960 and two for terms of six years to succeed the two directors of the prior district who were elected in 1961. The successors of these directors shall be elected for terms of six years. On the first Tuesday in April, 1968, two directors shall be elected for terms to commence on November 5, 1968, and to terminate on the first Tuesday in April, 1974, when their successors shall be elected for terms of six years. No director shall serve more than two consecutive six-year terms after October 13, 1963.

3. **Except as otherwise provided in subsection 4 of this section,** hereafter when a seven-director district becomes an urban district, the directors of the prior seven-director district shall continue as directors of the urban district until the expiration of the terms for which they were elected and until their successors are elected as provided in this subsection. The first biennial school election for directors shall be held in the urban district at the time provided in

subsection 1 which is on the date of or subsequent to the expiration of the terms of the directors of the prior district which are first to expire, and directors shall be elected to succeed the directors of the prior district whose terms have expired. If the terms of two directors only have expired, the directors elected at the first biennial school election in the urban district shall be elected for terms of six years. If the terms of four directors have expired, two directors shall be elected for terms of six years and two shall be elected for terms of four years. At the next succeeding biennial election held in the urban district, successors for the remaining directors of the prior seven-director district shall be elected. If only two directors are to be elected they shall be elected for terms of six years each. If four directors are to be elected, two shall be elected for terms of six years and two shall be elected for terms of two years. After seven directors of the urban district have been elected under this subsection, their successors shall be elected for terms of six years.

4. In any school district in any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, **or any school district which becomes an urban school district by reason of the 2000 federal decennial census**, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 1998.

169.070. RETIREMENT ALLOWANCES, HOW COMPUTED, ELECTION ALLOWED, TIME PERIOD — OPTIONS — EFFECT OF FEDERAL O.A.S.I. COVERAGE — COST-OF-LIVING ADJUSTMENT AUTHORIZED — LIMITATION OF BENEFITS — EMPLOYMENT OF SPECIAL CONSULTANT, COMPENSATION, MINIMUM BENEFITS. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years.

In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, 2003, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, 2003, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained age fifty-five;

(5) Between July 1, 1998, and July 1, 2003, two and three-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years, and the member has not attained age fifty-five;

(6) Between July 1, 1998, and July 1, 2003, two and twenty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years, and the member has not attained age fifty-five;

(7) Between July 1, 1998, and July 1, 2003, two and two-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years, and the member has not attained age fifty-five;

(8) Between July 1, 2001, and June 30, 2008, two and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is thirty-one years or more regardless of age.

2. In lieu of the retirement allowance provided in subsection 1 of this section, a member whose age is sixty years or more on September 28, 1975, may elect to have the member's retirement allowance calculated as a sum of the following items:

(1) Sixty cents plus one and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years;

(3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection for each month of attained age in excess of sixty years but not in excess of age sixty-five.

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's application for retirement to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated to receive the survivorship payments dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after acquiring twenty-five or more years of creditable service or after attaining the age of fifty-five years and acquiring five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's primary beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship benefits under option 2 or a payment of the accumulated contributions of the member. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section;

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the member's primary beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either a payment of the member's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the member's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section.

4. If the total of the retirement allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the estate of the individual, if there be no beneficiary. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the estate of the beneficiary unless the retired individual designates a different recipient with the board at or after retirement.

5. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the member or to the estate of the member, if there be no beneficiary; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the estate of the beneficiary.

6. If a member ceases to be a public school employee as herein defined and certifies to the board of trustees that such cessation is permanent, or if the membership of the person is otherwise terminated, the member shall be paid the member's accumulated contributions with interest.

7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

8. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member of the system for whom federal Old Age and Survivors Insurance tax is paid from state or local tax funds on account of the member's employment entitling the person to membership in the system. The monetary benefits for a member who elected not to exercise an option to pay into the system a retroactive contribution of four percent on that part of the member's annual salary rate which was in excess of four thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each year of employment in a position covered by this system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of this section as it appears in RSMo 1969, shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the benefits provided in this section as it appears in RSMo 1959; except that if the member has at least thirty years of creditable service at retirement the member shall receive the benefit payable pursuant to that section as though the member's age were sixty-five at retirement;

(4) For years of membership service after July 1, 1961, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

10. The monetary benefits for each other member for whom federal Old Age and Survivors Insurance tax is or was paid at any time from state or local funds on account of the member's employment entitling the member to membership in the system shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

11. Any retired member of the system who was retired prior to September 1, 1972, or beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement allowance of the member of two percent for each year, or major fraction of more than one-half of a year, which the retired member has been retired prior to July 1, 1975. This increased

amount shall be payable commencing with January, 1976, and shall thereafter be referred to as the member's retirement allowance. The increase provided for in this subsection shall not affect the retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor shall the amount being paid pursuant to these sections be reduced because of any increases provided for in this section.

12. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, [and not for any member retiring before July 1, 2000,] the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, **or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement.** Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

13. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 12 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; except that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1976.

14. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

15. Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

16. Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code **except as provided pursuant to this subsection. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.**

17. Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall

give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

- (1) Thirty or more years of service, one thousand two hundred dollars;
- (2) At least twenty-five years but less than thirty years, one thousand dollars;
- (3) At least twenty years but less than twenty-five years, eight hundred dollars;
- (4) At least fifteen years but less than twenty years, six hundred dollars.

18. Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. The total compensation provided by this section including the compensation provided by this subsection shall be used in calculating any future cost-of-living adjustments provided by subsection 12 of this section.

19. Any member who has retired prior to July 1, 1998, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive a payment equivalent to eight and seven-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

20. Any member who has retired shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such request. As compensation for such duties, the person shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

21. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall have added, pursuant to this

subsection, to the monthly annuity as provided by this section a dollar amount equal to five dollars times the member's number of years of creditable service.

22. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a payment equivalent to three and five-tenths percent of the previous month's benefit, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

23. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsection 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

169.075. SURVIVORS' BENEFITS, OPTIONS — PURCHASE OF PRIOR SERVICE CREDITS FOR PREVIOUS SERVICE IN ANOTHER MISSOURI PUBLIC SCHOOL RETIREMENT SYSTEM, COST — MONTHLY RETIREMENT ALLOWANCE — SPECIAL CONSULTANT QUALIFICATION, COMPENSATION, DUTIES. — 1. Certain survivors specified in this section and meeting the requirements of this section may elect to forfeit any payments payable pursuant to subsection 3 or 5 of section 169.070 and to receive certain other benefits described in this section upon the death of a member prior to retirement, except retirement with disability benefits, whose period of creditable service in districts included in the retirement system is two years or more and who dies (a) while teaching in a district included in the retirement system, or (b) as a result of an injury or sickness incurred while teaching in such a district and within one year of the commencement of such injury or sickness, or (c) while eligible for a disability retirement allowance hereunder.

2. Upon an election pursuant to subsection 1 of this section, a surviving spouse sixty years of age, or upon attainment of age sixty, or a surviving spouse who has been totally and permanently disabled for not less than five years immediately preceding the death of a member if designated as the sole beneficiary, and if married to the member at least three years, and if living with such member at the time of the member's death, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death or recovery prior to age sixty from the disability which qualified the spouse for the benefit, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. A surviving spouse, who is eligible for benefits pursuant to this subsection and also pursuant to subsection 3 of this section may receive benefits only pursuant to subsection 3 of this section as long as the surviving spouse remains eligible pursuant to both subsections, but shall not be disqualified for the benefit provided in this subsection because the surviving spouse may have received payments pursuant to subsection 3 of this section. **Beginning August 28, 2001, a surviving spouse who otherwise meets the requirements of this subsection but who remarried prior to August 28, 1995, shall be entitled, upon an election pursuant to subsection 1 of this section, to any remaining benefits that would otherwise have been received had the surviving spouse not remarried before the change in law permitting remarried surviving spouses to continue receiving benefits. Such surviving spouses may,**

upon application, become special consultants whose benefit will be to receive the remaining benefits described in this subsection. No benefit shall be paid to such surviving spouse unless he or she files a valid application for such benefit with the retirement system postmarked on or before June 30, 2002. In no event shall any retroactive benefits be paid.

3. Upon an election pursuant to subsection 1 of this section, a surviving spouse, if designated as the sole beneficiary, who has in the surviving spouse's care a dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until the surviving spouse's death, or the first date when no such dependent unmarried child under age eighteen, or age twenty-four if the child is enrolled in school on a full-time basis, remains in the surviving spouse's care, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. In addition the surviving spouse shall be entitled to a monthly payment equal to one-half this amount, provided that the monthly payment shall not be less than three hundred dollars, for each such dependent unmarried child under eighteen years of age, or age twenty-four if the child is enrolled in school on a full-time basis, who remains in the surviving spouse's care. Further, in addition to the monthly payment to the surviving spouse as provided for in this subsection, each dependent unmarried child under the age of eighteen years of the deceased member not in the care of such surviving spouse shall be entitled to a monthly payment equal to one-half of the surviving spouse's monthly payment which shall be paid to the child's primary custodial parent or legal guardian; provided that the payment because of an unmarried dependent child shall be made until the child attains age twenty-four if the child is enrolled in school on a full-time basis; provided, however, that the total of all monthly payments to the surviving spouse, primary custodial parent or legal guardian, including payments for such dependent unmarried children, shall in no event exceed two thousand one hundred sixty dollars, the amount of the children's share to be allocated equally as to each dependent unmarried child eligible to receive payments pursuant to this subsection.

4. Upon an election pursuant to subsection 1 of this section if the designated beneficiary is a dependent unmarried child as defined in this section or automatically upon the death of a surviving spouse receiving benefits pursuant to subsection 3 of this section, each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age twenty-four if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age twenty-four if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all monthly payments to the surviving dependent unmarried children shall in no event exceed two thousand one hundred sixty dollars.

5. Upon an election pursuant to subsection 1 of this section, a surviving dependent parent of the deceased member, over sixty-five years of age or upon attainment of age sixty-five if designated as the sole beneficiary, provided such dependent parent was receiving at least one-half of the parent's support from such member at the time of the member's death and provided the parent files proof of such support within two years of such death, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which

the member contributed for the member's last full year as a teacher in a district included in the retirement system until death; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars. If the other parent also is a dependent, as defined in this section, the same amount shall be paid to each until death.

6. All else in this section to the contrary notwithstanding, a survivor may not be eligible to benefit pursuant to this section because of more than one terminated membership, and be it further provided that the board of trustees shall determine and decide all questions of doubt as to what constitutes dependency within the meaning of this section.

7. The provisions added to subsection 3 of this section in 1991 are intended to clarify the scope and meaning of this section as originally enacted and shall be applied in all cases in which such an election has occurred or will occur.

8. After July 1, 2000, all benefits payable pursuant to subsections 1 to 7 of this section shall be payable to eligible current and future survivor beneficiaries in accordance with this section.

9. The system shall pay a monthly retirement allowance for the month in which a retired member, beneficiary or survivor receiving a retirement allowance or survivor benefit dies.

169.270. DEFINITIONS. — Unless a different meaning is clearly required by the context, the following words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member or paid on behalf of the member by the employer and credited to the member's individual account together with interest thereon in the employees' contribution fund. The board of trustees shall determine the rate of interest allowed thereon as provided for in section 169.295;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of formulas and/or tables which have been approved by the board of trustees;

(3) "Average final compensation", the highest average annual compensation received for any four consecutive years of service. In determining whether years of service are "consecutive", only periods for which creditable service is earned shall be considered, and all other periods shall be disregarded;

(4) "Beneficiary", any person designated by a member for a retirement allowance or other benefit as provided by sections 169.270 to 169.400;

(5) "Board of education", the board of directors or corresponding board, by whatever name, having charge of the public schools of the school district in which the retirement system is established;

(6) "Board of trustees", the board provided for in section 169.291 to administer the retirement system;

(7) "Break in service", an occurrence when a regular employee ceases to be a regular employee for any reason (including termination of employment, resignation, retirement or furlough but not including vacation, sick leave, excused absence or leave of absence granted by an employer) and such person does not again become a regular employee until after fifteen consecutive school or work days have elapsed. A "school or work day" is a day on which the employee's employer requires (or if the position no longer exists, would require, based on past practice) employees having the former employee's last job description to report to their place of employment for any reason;

(8) "Charter school", any charter school established pursuant to section 160.400 to 160.420, RSMo, and located, at the time it is established, within the school district;

(9) "Compensation", the regular compensation as shown on the salary and wage schedules of the employer plus any amounts paid by the employer on a member's behalf pursuant to subdivision (5) of subsection 1 of section 169.350, but such term is not to include extra pay, overtime pay, consideration for entering into early retirement, or any other payments not included on salary and wage schedules. For any year beginning after December 31, 1988, the annual

compensation of each member taken into account under the retirement system shall not exceed the limitation set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended;

[(9)] (10) "Creditable service", the amount of time that a regular employee is a member of the retirement system and makes contributions thereto in accordance with the provisions of sections 169.270 to 169.400;

(11) "Employee", any person who is classified by the school district, a charter school, the library district or the retirement system established by section 169.280 as an employee of such employer and is reported contemporaneously for federal and state tax purposes as an employee of such employer. A person is not considered to be an employee for purposes of such retirement system with respect to any service for which the person was not reported contemporaneously for federal and state tax purposes as an employee of such employer, regardless of whether the person is or may later be determined to be or to have been a common law employee of such employer, including but not limited to a person classified by the employer as independent contractors and persons employed by other entities which contract to provide staff and services to the employer. In no event shall a person reported for federal tax purposes as an employee of a private, for-profit entity be deemed to be an employee eligible to participate in the retirement system established by section 169.280 with respect to such employment;

[(10)] (12) "Employer", the school district, any charter school, the library district, or the retirement system established by section 169.280, or any combination thereof, as required by the context to identify the [common law] employer of any member, or, for purposes only of subsection 2 of section 169.324, of any retiree;

[(11)] (13) "Employer's board", the board of education, the governing board of any charter school, the board of trustees of the library district, the board of trustees, or any combination thereof, as required by the context to identify the governing body of an employer;

[(12)] (14) "Library district", any urban public library district created from or within a school district under the provisions of section 182.703, RSMo;

[(13)] (15) "Medical board", the board of physicians provided for in section 169.291;

[(14)] (16) "Member", any person who is a regular employee after the retirement system has been established hereunder ("active member"), and any person who (i) was an active member, (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement allowance hereunder ("inactive member");

[(15)] (17) "Minimum normal retirement age", the earlier of the member attaining the age of sixty or has a total of at least seventy-five credits, with each year of creditable service, and prorated for fractional years, equal to one credit and each year of age, and prorated for fractional years, equal to one credit;

[(16)] (18) "Prior service", service prior to the date the system becomes operative which is creditable in accordance with the provisions of section 169.311. Prior service in excess of thirty-eight years shall be considered thirty-eight years;

[(17)] (19) "Regular employee", any [person employed by the school district, the library district, or the retirement system] **employee** who is assigned to an established position which requires [a] service of not less than five hours per day, five days per week, and not less than nine calendar months a year. Any regular employee who is subsequently assigned without break in service to a position demanding less service than is required of a regular employee shall continue the employee's status as a regular employee. However, a temporary, part-time or furloughed employee is not a regular employee;

[(18)] (20) "Retiree", a former member receiving a retirement allowance hereunder;

[(19)] (21) "Retirement allowance", annuity payments to a retiree or to such beneficiary as is entitled to same;

[(20)] (22) "School district", any school district in which a retirement system shall be established under section 169.280.

169.280. RETIREMENT SYSTEM CREATED — SYSTEM, HOW MANAGED. — 1. In each school district of this state (i) that now has or may hereafter have a population of not more than seven hundred thousand and (ii) not less than seventy percent of whose population resides in a city other than a city not within a county which now has or may hereafter have a population of four hundred thousand or more, according to the latest United States decennial census, there is hereby created and established a retirement system for the purpose of providing retirement allowances and related benefits for employees of the employer. Each such system shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of (name of school district)", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. When a school district first satisfies the foregoing population conditions, the board of education shall adopt a resolution certifying the same and take all actions necessary to cause the retirement system to begin operation on the thirtieth day of September following such certification.

2. In the event that (i) the population of a school district having a retirement system created hereunder should increase to a number greater than seven hundred thousand, or (ii) the population of the city in which not less than seventy percent of the population of the school district resides should decrease to a number less than four hundred thousand, or (iii) less than seventy percent of the population of the school district should reside in a city having a population of at least four hundred thousand, or (iv) **the corporate organization of the school district shall lapse in accordance with subsections 1 and 4 of section 162.081, RSMo**, the retirement system of such school district shall continue to be governed by and subject to sections 169.270 to 169.400 and all other statutes, rules, and regulations applicable to retirement systems in school districts having a population of not more than seven hundred thousand and not less than seventy percent of whose population resides in a city, other than a city not within a county, of four hundred thousand or more, as if the population of such school district and city continued to be within such numerical limits.

169.291. BOARD OF TRUSTEES, QUALIFICATIONS, TERMS — SUPERINTENDENT OF SCHOOL DISTRICT TO BE MEMBER — VACANCIES — LAPSE OF CORPORATE ORGANIZATION, EFFECT OF — OATHS — OFFICERS — EXPENSES — POWERS AND DUTIES — MEDICAL BOARD, APPOINTMENT — CONTRIBUTION RATES OF EMPLOYERS, AMOUNT. —

1. The general administration and the responsibility for the proper operation of the retirement system are hereby vested in a board of trustees of twelve persons who shall be resident taxpayers of the school district, as follows:

(1) Four trustees to be appointed for terms of four years by the board of education; provided, however, that the terms of office of the first four trustees so appointed shall begin immediately upon their appointment and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(2) Four trustees to be elected for terms of four years by and from the members of the retirement system; provided, however, that the terms of office of the first four trustees so elected shall begin immediately upon their election and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(3) The ninth trustee shall be the superintendent of schools of the school district;

(4) The tenth trustee shall be one retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 13, 1986, by the retirants of the retirement system;

(5) The eleventh trustee shall be appointed for a term of four years beginning the first day of January immediately following August 13, 1990, by the board of trustees described in subdivision (3) of section 182.701, RSMo;

(6) The twelfth trustee shall be a retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 28, 1992, by the retirants of the retirement system.

2. If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except that the board of trustees may appoint a qualified person to fill the vacancy in the office of an elected member until the next regular election at which time a member shall be elected for the unexpired term. **No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies.**

3. **In the event of a lapse of the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, the general administration and responsibility for the proper operation of the retirement system shall continue to be vested in a twelve-person board of trustees, all of whom shall be resident taxpayers of a city, other than a city not within a county, of four hundred thousand or more. In such event, if vacancies occur in the offices of the four trustees appointed, prior to the lapse, by the board of education, or in the offices of the four trustees elected, prior to the lapse, by the members of the retirement system, or in the office of trustee held, prior to the lapse, by the superintendent of schools in the school district, as provided in subdivisions (1), (2) and (3) of subsection 1 of this section, the board of trustees shall appoint a qualified person to fill each vacancy and subsequent vacancies in the office of trustee for terms of up to four years, as determined by the board of trustees.**

[3.] 4. Each trustee shall, before assuming the duties of a trustee, take the oath of office before the court of the judicial circuit or one of the courts of the judicial circuit in which the school district is located that so far as it devolves upon the trustee, such trustee shall diligently and honestly administer the affairs of the board of trustees and that the trustee will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the trustee making it and filed in the office of the clerk of the circuit court.

[4.] 5. Each trustee shall be entitled to one vote in the board of trustees. Seven trustees shall constitute a quorum at any meeting of the board of trustees. At any meeting of the board of trustees where a quorum is present, the vote of at least seven of the trustees in support of a motion, resolution or other matter is necessary to be the decision of the board; **provided, however, that in the event of a lapse in the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, a majority of the trustees then in office shall constitute a quorum at any meeting of the board of trustees, and the vote of a majority of the trustees then in office in support of a motion, resolution or other matter shall be necessary to be the decision of the board.**

[5.] 6. The board of trustees shall have exclusive original jurisdiction in all matters relating to or affecting the funds herein provided for, including, in addition to all other matters, all claims for benefits or refunds, and its action, decision or determination in any matter shall be reviewable in accordance with chapter 536, RSMo, or chapter 621, RSMo. Subject to the limitations of sections 169.270 to 169.400, the board of trustees shall, from time to time, establish rules and regulations for the administration of funds of the retirement system, for the transaction of its business, and for the limitation of the time within which claims may be filed.

[6.] 7. The trustees shall serve without compensation. The board of trustees shall elect from its membership a chairman and a vice chairman. The board of trustees shall appoint an executive director who shall serve as the administrative officer of the retirement system and as secretary to the board of trustees. It shall employ one or more persons, firms or corporations experienced in the investment of moneys to serve as investment counsel to the board of trustees. The compensation of all persons engaged by the board of trustees and all other expenses of the

board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board of trustees shall approve, and shall be paid from the investment income.

[7.] **8.** The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuations of the various funds of the retirement system and for checking the experience of the system.

[8.] **9.** The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall prepare annually and furnish to the board of education and to each member of the retirement system who so requests a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

[9.] **10.** The board of trustees shall have, in its own name, power to sue and to be sued, to enter into contracts, to own property, real and personal, and to convey the same; but the members of such board of trustees shall not be personally liable for obligations or liabilities of the board of trustees or of the retirement system.

[10.] **11.** The board of trustees shall arrange for necessary legal advice for the operation of the retirement system.

[11.] **12.** The board of trustees shall designate a medical board to be composed of three physicians who shall not be eligible for membership in the system and who shall pass upon all medical examinations required under the provisions of sections 169.270 to 169.400, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it.

[12.] **13.** The board of trustees shall designate an actuary who shall be the technical advisor of the board of trustees on matters regarding the operation of the retirement system and shall perform such other duties as are required in connection therewith. Such person shall be qualified as an actuary by membership as a Fellow of the Society of Actuaries or by similar objective standards.

[13.] **14.** At least once in each five-year period the actuary shall make an investigation into the actuarial experience of the members, retirants and beneficiaries of the retirement system and, taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such actuarial assumptions as the board of trustees deems necessary for the financial soundness of the retirement system.

[14.] **15.** On the basis of such actuarial assumptions as the board of trustees adopts, the actuary shall make annual valuations of the assets and liabilities of the funds of the retirement system.

[15.] **16.** The rate of contribution payable by the employer shall equal one and ninety-nine one-hundredths percent, effective July 1, 1993; three and ninety-nine one-hundredths percent, effective July 1, 1995; five and ninety-nine one-hundredths percent, effective July 1, 1996; seven and one-half percent effective January 1, 1999, and for all subsequent years.

17. In the event of a lapse of a school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, no retirement system, nor any of the assets of any retirement system, shall be transferred to or merged with another retirement system without prior approval of such transfer or merge by the board of trustees of the retirement system.

169.301. RETIREMENT BENEFITS TO VEST, WHEN — AMOUNT, HOW COMPUTED — OPTION OF CERTAIN MEMBERS TO TRANSFER PLANS, REQUIREMENTS — RETIRANT BECOMING ACTIVE MEMBER, EFFECT ON BENEFITS. — 1. Any active member who has completed five or more years of actual (not purchased) creditable service shall be entitled to a vested retirement benefit equal to the annual service retirement allowance provided in sections 169.270 to 169.400 payable after attaining the minimum normal retirement age and calculated

in accordance with the law in effect on the last date such person was a regular employee; provided, that such member does not withdraw such person's accumulated contributions pursuant to section 169.328 prior to attaining the minimum normal retirement age.

2. Any member who elected on October 13, 1961, or within thirty days thereafter, to continue to contribute and to receive benefits under sections 169.270 to 169.400 may continue to be a member of the retirement system under the terms and conditions of the plan in effect immediately prior to October 13, 1961, or may, upon written request to the board of trustees, transfer to the present plan, provided that the member pays into the system any additional contributions with interest the member would have credited to the member's account if such person had been a member of the current plan since its inception or, if the person's contributions and interest are in excess of what the person would have paid, such person will receive a refund of such excess. The board of trustees shall adopt appropriate rules and regulations governing the operation of the plan in effect immediately prior to October 13, 1961.

3. Should a retirant again become an active member, such person's retirement allowance payments shall cease during such membership and shall be recalculated upon subsequent retirement to include any creditable service earned during the person's latest period of active membership **in accordance with subsection 2 of section 169.324.**

169.315. RULES, REGULATIONS TO PERMIT PURCHASE OF CREDITABLE SERVICE, REQUIREMENTS — ELIGIBILITY. — 1. The board of trustees shall adopt rules and regulations which shall permit members to purchase creditable service under the circumstances provided for in this section. Such rules and regulations shall specify, for each such designated circumstance:

(1) The manner in which the employee contributions required to purchase such service shall be calculated;

(2) The manner in which any employer contributions required for such service shall be calculated;

(3) The maximum amount of service that may be purchased, if any;

(4) The time by which the election to purchase service shall be made and the period over which such contributions shall be paid; and

(5) Any other requirements the member must satisfy in order to be eligible to purchase service in such circumstance.

All such rules and regulations shall be applied on a uniform and nondiscriminatory basis so that all members are treated similarly under similar circumstances.

2. Any active member who ceased to be a regular employee and received a refund of contributions and interest attributable to a prior period of service with [the district in which the retirement system is established] **any employer** may, after reemployment as a regular employee and prior to retirement, elect to reinstate any creditable service the member forfeited by purchasing such service in accordance with the rules and regulations adopted by the board of trustees.

3. Any active member who has rendered service in a public school district or public library within the state of Missouri but outside of the district in which the retirement system is established, or in a college, junior college or university within the state of Missouri may elect to purchase and receive credit for such service in accordance with the rules and regulations adopted by the board of trustees.

4. Any active member who has rendered service in a public school district, public library, college, junior college or university outside the state of Missouri may elect to purchase and receive credit for such service in accordance with the rules and regulations adopted by the board of trustees; provided that, such member shall pay to the retirement system, in addition to all required employee contributions, the required amount of employer contributions, plus interest, for each year of creditable service being purchased.

5. Any active member who was, prior to becoming a member, employed by a private school, college or university on a full-time basis and duly certified under the law governing the

certification of teachers during all of such employment may elect to purchase and receive credit for such private school service in accordance with the rules and regulations adopted by the board of trustees; provided that, such member shall pay to the retirement system, in addition to all required employee contributions, the required amount of employer contributions, plus interest, for each year of creditable service being purchased. As used in this section, the term "private school" means a school which is not a part of the public school system of the state of Missouri and which charges tuition for the rendering of elementary, secondary educational or post-secondary educational services.

6. Any active member who, voluntarily or involuntarily, enters service in the armed forces of the United States or other national defense service may, after reemployment and prior to retirement, elect to purchase and receive credit for such military service in accordance with the rules and regulations adopted by the board of trustees and with the laws governing the reemployment rights of veterans.

7. Any active member who is granted a period of approved, unpaid leave of absence by the employer's board for academic study at a college, junior college, university or otherwise, illness or such other circumstances as may be authorized by the board of trustees, may elect to purchase and receive creditable service for such period of leave in accordance with the rules and regulations adopted by the board of trustees.

169.324. RETIREMENT ALLOWANCES, MINIMUM AMOUNTS — RETIRANTS MAY SUBSTITUTE WITHOUT AFFECTING ALLOWANCE, LIMITATION — ANNUAL DETERMINATION OF ABILITY TO PROVIDE BENEFITS, STANDARDS — ACTION PLAN FOR USE OF MINORITY AND WOMEN MONEY MANAGERS, BROKERS AND INVESTMENT COUNSELORS. — 1. The annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by one and three-fourths percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. For any member [retiring] **who retires as an active member** on or after June 30, 1999, the annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by two percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. Any member whose number of years of creditable service is greater than thirty-four and one-quarter on August 28, 1993, [that provides for the foregoing formula for determining the annual service retirement allowance] shall receive an annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the retirant's number of years of creditable service as of August 28, 1993, multiplied by one and three-fourths percent of the person's average final compensation but shall not receive a greater annual service retirement allowance based on additional years of creditable service after August 28, 1993[, that provides for the foregoing formula for determining the annual service retirement allowance]. Provided, however, that, effective January 1, 1996, any retiree who retired on, before or after January 1, 1996, with at least twenty years of creditable service shall receive at least three hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326. Provided, further, any retiree who retired with at least ten years of creditable service shall receive at least one hundred fifty dollars each month as a retirement allowance, plus fifteen dollars for each additional full year of creditable service greater than ten years but less than twenty years (or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326). Any beneficiary of a deceased retiree who retired with at least ten years of creditable service and elected one of the options available under section 169.326 shall also be entitled to the actuarial equivalent of the minimum benefit provided by this subsection, determined from the option chosen.

2. Except as otherwise provided in sections 169.580 and 169.585, [a retirant may not receive a retirement allowance payment in] **payment of a retirant's retirement allowance will be suspended for** any month for which such person receives remuneration from the person's employer **or from any other employer in the retirement system established by section 169.280** for the performance of services except such person may serve as a nonregular substitute, part-time or temporary employee for [not to exceed five] **nor more than six** hundred [thirty] hours in any school year without becoming a member and without having the person's retirement allowance discontinued. **If a retirant is reemployed by any employer in any capacity, whether pursuant to this section, section 169.580 or section 169.585 or as a regular employee, the amount of such person's retirement allowance attributable to service prior to the person's first retirement date shall not be changed by the reemployment. If the person again becomes an active member and earns additional creditable service, upon the person's second retirement the person's retirement allowance shall be the sum of:**

(1) **The retirement allowance the person was receiving at the time the person's retirement allowance was suspended, pursuant to the payment option elected as of the first retirement date, plus the amount of any increase in such retirement allowance the person would have received pursuant to subsection 3 of section 169.324 had payments not been suspended during the person's reemployment; and**

(2) **An additional retirement allowance computed using the benefit formula in effect on the person's second retirement date, the person's creditable service following reemployment, and the person's average annual compensation as of the second retirement date.**

The sum calculated pursuant to this subsection shall not exceed the greater of sixty percent of the person's average final compensation as of the second retirement date or the amount determined pursuant to subdivision (1) of this subsection. Compensation earned prior to the person's first retirement date shall be considered in determining the person's average final compensation as of the second retirement date if such compensation would otherwise be included in determining the person's average final compensation.

3. The board of trustees shall determine annually whether the investment return on funds of the system can provide for an increase in benefits for retirants eligible for such increase. A retirant shall and will be eligible for an increase awarded pursuant to this section as of the [fourth] **second** January following the date the retirant commenced receiving retirement benefits. Any such increase shall also apply to any monthly joint and survivor retirement allowance payable to such retirant's beneficiaries, regardless of age. The board shall make such determination as follows:

(1) After determination by the actuary of the investment return for the preceding year as of December thirty-first (the "valuation year"), the actuary shall recommend to the board of trustees what portion of the investment return is available to provide such benefits increase, if any, and shall recommend the amount of such benefits increase, if any, to be implemented as of the first day of the thirteenth month following the end of the valuation year, and the first payable on or about the first day of the fourteenth month following the end of the valuation year. The actuary shall make such recommendations so as not to affect the financial soundness of the retirement system, recognizing the following safeguards:

(a) The retirement system's funded ratio as of January first of the year preceding the year of a proposed increase shall be at least one hundred percent after adjusting for the effect of the proposed increase. The funded ratio is the ratio of assets to the pension benefit obligation;

(b) The actuarially required contribution rate, after adjusting for the effect of the proposed increase, may not exceed the statutory contribution rate;

(c) The actuary shall certify to the board of trustees that the proposed increase will not impair the actuarial soundness of the retirement system;

(d) A benefit increase, under this section, once awarded, cannot be reduced in succeeding years;

(2) The board of trustees shall review the actuary's recommendation and report and shall, in their discretion, determine if any increase is prudent and, if so, shall determine the amount of increase to be awarded.

4. This section does not guarantee an annual increase to any retiree.

5. **If an inactive member becomes an active member after June 30, 2001, and after a break in service, unless the person earns at least four additional years of creditable service without another break in service, upon retirement the person's retirement allowance shall be calculated separately for each separate period of service ending in a break in service. The retirement allowance shall be the sum of the separate retirement allowances computed for each such period of service using the benefit formula in effect, the person's average final compensation as of the last day of such period of service and the creditable service the person earned during such period of service; provided, however, if the person earns at least four additional years of creditable service without another break in service, all of the person's creditable service prior to and including such service shall be aggregated and, upon retirement, the retirement allowance shall be computed using the benefit formula in effect and the person's average final compensation as of the last day of such period of four or more years and all of the creditable service the person earned prior to and during such period.**

6. Notwithstanding anything contained in this section to the contrary, the amount of the annual service retirement allowance payable to any retiree pursuant to the provisions of sections 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section, shall at all times comply with the provisions and limitations of Section 415 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

[6.] 7. All retirement systems established by the laws of the state of Missouri shall develop a procurement action plan for utilization of minority and women money managers, brokers and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

169.410. DEFINITIONS. — The following words and phrases as used in sections 169.410 to 169.540, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and credited to the member's individual account together with interest allowed on such an account;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of interest and such mortality tables as shall be adopted by the board of trustees;

(3) "Average final compensation", the highest average annual compensation of the member received for any three consecutive years of **credited** service of the member's last ten years of **credited** service or if the member has had less than three years of such **credited** service, during the member's entire period of **credited** service;

(4) "Beneficiary", any person other than a [retiree] **retired member** receiving a [retirement allowance or] **pension benefit**, optional [retirement allowance] **pension benefit** or other benefit;

(5) "Board of education", the board of education or corresponding board having charge of the public schools of the school district other than those public schools which are operated by the board of regents;

(6) "Board of regents", the board of regents or corresponding board having charge of a public city teacher training school within the school district which was operated by its board of education prior to September 1, 1978;

(7) "Board of trustees", the board which administers the retirement system;

(8) **"Charter school", any charter school established pursuant to sections 160.400 to 160.420, RSMo, and located, at the time it is established, within the school district;**

[(8)] **(9) "Compensation"**, the regular compensation which a member has earned as an employee during any period, excluding, however, any compensation earned by a person who became a member after December 31, 1995, which is in excess of the limitation set forth in section 401(a)(17) of the Internal Revenue Code;

[(9)] **(10) "Consumer price index"**, the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by the board of trustees, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

[(10)] **"Creditable" (11) "Credited service"**, prior service plus membership service **plus service purchased pursuant to applicable Missouri statute**;

[(11)] **(12) "Employee"**, any person regularly employed by (a) the board of education, or (b) the board of trustees, or (c) the board of regents who was employed at a public teacher training school within the school district prior to September 1, 1978, and who did not become a member of the Missouri state employees' retirement system pursuant to section 104.342, RSMo, **or (d) a charter school**. In case of doubt as to whether any person is an employee, the decision of the [employing] board of education, **or the board of trustees, or the board of regents** shall be final and conclusive;

(13) "Employer", the board of education, the board of trustees, the board of regents or a charter school;

[(12)] **(14) "Medical board"**, the board of physicians;

[(13)] **(15) "Member"**, a member of the retirement system defined as an:

(a) "Active member", a [member] **person** who is an employee; [or]

(b) "Inactive member", a **former active** member who [is not an employee:] **has accumulated contributions with the retirement system; or**

(c) **"Retired member", a former active member who has retired and is receiving benefits**;

[(14)] **(16) "Membership service"**, service rendered [since last becoming a member which is creditable] **as an employee for which the employee received compensation**. For the purpose of computing creditable service at retirement, membership service shall include a member's accumulated and unused days of sick leave. The decision of the employing board as to the number of accumulated and unused days of sick leave held by a member shall be final and conclusive;

(17) "Pension benefit" or "pension", monthly payments for life to a retired member or to such beneficiary as is entitled to the payments;

[(15)] **(18) "Prior service"**, service prior to the date the system [becomes] **became** operative which is [creditable] **credited**;

[(16)] **(19) "Public school"**, any school for elementary, secondary or higher education, open and public, which is supported and maintained from public funds and which is operated by the board of education of the school district [or], by the board of regents, **or as a charter school as defined pursuant to sections 160.400 to 160.420, RSMo**;

[(17)] "Retirant" or] **(20) "Retired member"**, a [former] member receiving a retirement [allowance] **benefit** or [optional retirement allowance or] other benefit;

[(18)] "Retirement allowance", equal monthly payments for life to a retirant or to such beneficiary as is entitled to the payments;

[(19)] **(21) "Retirement system"**, the public school retirement [school] system of a school district;

[(20)] **(22) "School administrator"**, an employee whose job classification is included on the school administrators' position schedule of the employing board;

[(21)] **(23) "School district"**, any **metropolitan** school district [now having or hereafter attaining a population of seven hundred thousand inhabitants or more in which a retirement system shall be established] **as defined pursuant to section 160.011, RSMo**;

[(22)] **(24)** "Teacher", any teacher, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, who shall teach or be employed on a full-time basis in the public schools of a school district **or charter school**, except those teachers electing to become [a member] **members** of the Missouri state employees' retirement system pursuant to section 104.342, RSMo. In case of doubt as to whether any person is a teacher, the decision of the board of education, or the board of regents with respect to individuals within its charge, shall be final and conclusive.

169.420. RETIREMENT SYSTEM — HOW MANAGED. — In all **metropolitan** school districts of this state [that now have or may hereafter attain a population of seven hundred thousand inhabitants or more], there are hereby created and established retirement systems for the purpose of providing retirement [allowances] **benefits** for employees of said school districts. Each such system shall be a body corporate, and shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of (name of school district)". Such system shall, by and in such name, sue and be sued, transact all of its business, invest all of its funds and hold all of its cash, securities and other property; provided, however, that such securities and other property may be held on behalf of the retirement system in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. [The retirement systems so created shall begin operations as of the first day of the second month next following the date upon which this law shall take effect under article III, section 29, of the Constitution of the state of Missouri or on the first day of the second month next following the date when the school districts shall have thereafter attained a population of seven hundred thousand inhabitants or more.]

169.430. WHO SHALL BE MEMBERS. — [1.] All persons who shall hereafter become employees, shall become members as a condition of their employment and shall receive no pension or retirement [allowance] **benefit** from any pension or retirement system other than the retirement system established [under] **pursuant to** sections 169.410 to 169.540 because of **credited** years of service in the school district, nor shall they be required to make contributions under any other pension or retirement system of any school district or state because of such years, except that this section does not prohibit the extension of the benefits and liabilities of Title II of the Social Security Act of the United States (42 U.S.C.A. Section 401 et seq.) to the employees of the school district for the purpose of supplementing the benefits provided by this law, through agreement by the district and the state pursuant to sections 105.300 to 105.440, RSMo.

[2. Any employee in service on the date the retirement system becomes operative shall become a member as of that date unless prior thereto he shall file with the board of trustees on a form prescribed by the board of trustees a notice of his election not to become a member of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system.

3. Should any member with less than five years of creditable service not be an employee for more than four consecutive years or should any member withdraw his accumulated contributions, or should any member become a retirant or die, he shall thereupon cease to be a member.]

169.440. YEARS OF SERVICE, HOW DETERMINED — PURCHASE OF CREDIT FOR SERVICE, LIMITATIONS AND CONDITIONS. — 1. [The board of trustees shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year. Notwithstanding any other provisions of this subsection,] **In no case shall more than one year of service be credited for all service in one calendar year.**

2. The board of trustees shall include an employee's accumulated and unused days of sick leave, if any, in computing the employee's [creditable] **credited** service upon the employee's retirement.

[2. Under such rules and regulations as the board of trustees shall adopt, each employee who was employed by the school district on and prior to the date this retirement system becomes operative and who becomes a member within one year from such date, shall file a detailed statement of all service as such employee rendered by the member to the school district prior to that date and prior to the member's attainment of age sixty-five, for which the member claims credit; provided, however, that teachers may, in addition, claim credit in such statement for not more than ten years of service rendered in public schools outside the school district. Any member with service prior to January 1, 1944, who became a member after January 1, 1945, may file claim for prior service up to a maximum of twelve years provided the member has a minimum of five continuous years of membership service and a total membership service of not less than the years of prior service being claimed.

3. Subject to the above restrictions and to such other rules and regulations as the board of trustees may adopt, the board of trustees shall verify the service claims as soon as practicable after the filing of such statements of service.

4. Upon verification of the statements of service, the board of trustees shall issue prior service certificates, certifying to each member the length of prior service with which the member is credited on the basis of the member's statement of service. So long as the holder of such a certificate continues to be a member, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member may, within one year from the date of issuance, or modification, of such certificate, request the board of trustees to modify or correct the member's prior service certificate. When any employee ceases to be a member the employee's prior service certificate shall become void, and should such employee again become a member such employee shall enter the retirement system as a member not entitled to prior service and membership service credit. After the member has five years of continuous membership service since last date of reemployment and provided the member could not under the applicable law at date of the member's termination have left such member's accumulated contributions for accrued deferred retirement benefits, the member may reinstate the member's creditable service as of such date by paying to the system the accumulated contributions the member withdrew with interest to the date of repayment.

5. Membership service at retirement shall include creditable service as an employee, on account of which contributions are made by the employing board and by the member except as to creditable military service and accumulated and unused days of sick leave.

6. Creditable service upon retirement of a member, or upon such other date as a member shall cease to be an employee shall consist of membership service, and if the member has a prior service certificate in full force and effect it shall include service certified on the member's prior service certificate, except that in determining the amount of any benefits pursuant to sections 169.410 to 169.585 the years of prior service creditable shall not exceed the number of years which, when added to the membership service of the member, equals thirty-five years.

7.] 3. Any member inducted into the armed forces of the United States while an employee, and discharged or separated from such service by other than dishonorable discharge, shall be credited with such period or periods of time, not exceeding a total of four years, spent in such service during time of war or national emergency, and any additional period or periods of involuntary service as if such member had been for all effects and purposes in active service as an employee during such period or periods of time. Periods of national emergency, as that term is used in this section, shall be prescribed by rule of the board of trustees, giving due regard to the acts and resolutions of Congress and the proclamations and orders of the President.

[8. Any employee whose membership was terminated during the years 1944 to 1947, inclusive, pursuant to a rule of the board of education prohibiting the employment of married women teachers and who was reemployed on or before January 1, 1950, and is a member as of

October 13, 1969, may reinstate the creditable service forfeited by the termination and acquire credit as membership service for service rendered subsequent to the termination. In order to obtain such credit, the member must pay the unpaid accumulated contributions for the approved years of membership service to be credited together with any contributions which have been refunded to the member plus interest from the date of the refund or from the date of membership service to the date of repayment as provided herein. No prior service may be reinstated or other service credited unless full payment is made for contributions for all possible service which is classified as membership service.

9.] **4.** Any member who is granted a leave of absence with reduced pay may authorize deduction of contributions based on full compensation, the same as if not on leave, and in such case the full compensation shall be used as annual compensation in determining the final average compensation for calculation of benefits.

[10. Any employee who rendered service which at the time was not classified as membership service nor were contributions paid but which would be classified as membership service under later law and regulations may receive credit for such service by paying the required contributions for such period of service with interest to date.

11.] **5.** A member [who has rendered service in a public school district in the state of Missouri, or outside the state of Missouri,] may elect to purchase and receive credit for [such] service in accordance with the following conditions and limitations:

(1) The member must have a minimum of five years of continuous [creditable] **credited** membership service in this retirement system prior to the member's election to purchase;

(2) [Service to be credited must be service for which the member did not and could not receive accrued benefits by leaving contributions with any other retirement system under the applicable law in effect at the termination of such service;

(3)] The member must have one year of [creditable] **credited** service in this **retirement** system for each year to be credited;

[4] The maximum period of service which can be credited pursuant to this subsection is ten years;]

(3) The member must purchase the entire amount of credited service the member is eligible to purchase in a given category;

(4) Eligible categories of credited service that can be purchased are:

(a) Service rendered in a public school district in the state of Missouri, or outside the state of Missouri;

(b) Service as an employee which at the time was not classified as membership service nor were contributions paid but which would be classified as membership service under later law and regulations;

(c) The period during which an employee's membership was terminated during the years 1944 to 1947, inclusive, pursuant to a rule of the board of education prohibiting the employment of married women teachers, provided the member was re-employed on or before January 1, 1950, and was a member as of October 13, 1969;

(d) A period of up to five years during which a member was involuntarily laid off in a staff reduction by the board of education after 1980, provided the member was restored to full-time employment and the member did not receive a refund of the member's accumulated contributions for credited service rendered prior to the layoff;

(e) Service for which the member received a refund of the member's accumulated contributions;

(f) Up to three years of service rendered in a school, which is not part of the public school system of this state and which charged tuition for the rendering of elementary and secondary educational services, as a full-time employee who was duly certified under the law governing the certification of teachers during all of such years of employment;

(5) The member must pay for the purchase of service [after January 1, 1944, the total amount of member's contributions for such years being purchased plus interest at the rates fixed

by the board of trustees with the contributions based on the compensation at which the member initially was employed in this school district and the contribution rates then in effect;

(6) If all service after January 1, 1944, for which a member is eligible has been purchased and it is less than ten years, the member may apply for credit for service prior to January 1, 1944, provided the total credit does not exceed ten years, subject to applicable conditions and limitations in this subsection, but no payment shall be required;] **the amount required by the rules and regulations established by the board of trustees of the retirement system;**

(6) The retirement system may accept a transfer of funds from a plan qualified under sections 401(a) or 403(b) of the Internal Revenue Code in full or partial payment of the amount required to purchase the credited service;

(7) A member shall receive credit at retirement for only such service as has met the conditions of this subsection. If the member has paid for any service which has not been credited, the member shall receive a refund of the excess payment. If the member has not completed such member's payment at time of retirement, the first benefits from the **retirement** system shall be applied to pay the balance of the amount due and thereafter the full benefits shall be payable[]; and

(8) Any credit granted for service outside the school district prior to January 1, 1944, pursuant to subsection 2 of this section shall be included in determining whether any additional credit may be obtained pursuant to this subsection.

12. An active member who is involuntarily laid off in a staff reduction by the board of education or board of regents after 1980 may, if the member is restored to full-time employment, elect to purchase and receive credit for service retirement for the period of such layoff in accordance with the following conditions and limitations:

(1) The member shall be an employee with a minimum of five years of continuous creditable membership service in this retirement system prior to the time the member elects to purchase service for the period of such layoff;

(2) The member shall not have been paid the member's accumulated contribution credited to the member's individual account after such layoff;

(3) The maximum period of creditable service which may be credited pursuant to this subsection is five years;

(4) The member shall pay for the purchase of creditable service the total cost of such service as determined by the board of trustees based on accepted actuarial methods using the same assumptions used by the retirement system at the time of such election. Such cost shall include both the employee's and the system's share of the cost of such credited service;

(5) The member shall make payment in full for the purchase of creditable service pursuant to this subsection over a period not to exceed five years, measured from the date of election, or prior to the effective date of retirement of the member, whichever is earlier, and with interest compounded annually at the rate established by the board of trustees.

13. Notwithstanding any other provision of sections 169.410 to 169.540 to the contrary, any member with five or more years of creditable service who ceased to be an employee, who has received a refund of such member's accumulated contributions pursuant to subsection 9 of section 169.460, who again becomes a member of the retirement system, may elect to reinstate any creditable service forfeited at time or times of any previous refunds. Such reinstatement shall be effected by the member paying to the retirement system with interest the amount of accumulated contributions refunded to the member on or after the time such member ceased to be an employee, and by continuous employment in the district for at least an additional seven years of creditable service before such member retires. Such payment with interest shall be made over a period of not longer than five years from the date of such member's election to reinstate creditable service, provided that such payment shall in all events be made prior to the retirement of such member. The member electing to reinstate such creditable service may not receive or be eligible to receive retirement benefits from any other retirement system for the

period for which creditable service is being reinstated, and such member shall furnish an affidavit to the retirement system so stating].

169.450. TRUSTEES — SELECTION, QUALIFICATIONS, POWERS AND DUTIES — CIRCUIT COURT'S JURISDICTION OVER BOARD — BOARD'S AUTHORITY TO MAKE RULES FOR ADMINISTERING ASSETS OF SYSTEM. — 1. The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of sections 169.410 to 169.540 are hereby vested in a board of trustees of eleven persons, as follows:

(1) Four trustees to be appointed for terms of four years by the board of education; provided, however, that their terms shall be fixed so the terms of one of the trustees so appointed shall expire each year. **The members of such board of trustees appointed by the board of education may be members of the board of education or other individuals deemed qualified to hold such positions by the board of education;**

(2) Four trustees to be elected for terms of four years by and from the active members of the retirement system who shall hold office as trustees only while active members; provided, however, that their terms shall be fixed so that the terms of one of the trustees so elected shall expire each year; and provided further, that not more than two of such persons shall be teachers and two shall be nonteachers. **For the purposes of this subsection, a school administrator shall not be eligible for the positions established pursuant to this subdivision and shall be eligible for the position established pursuant to subdivision (4) of this subsection;**

(3) Two trustees, who shall be [retirants] **retired members**, to be elected for terms of four years by and from the [retirants] **retired members** of the retirement system; provided, however, that the terms of office of the first two trustees so elected shall begin immediately upon their election and shall expire two and four years from the date of their election, respectively; and provided further, that not more than one of such persons shall be a teacher and one shall be a nonteacher;

(4) One member, who shall be a school administrator, to be elected for a term of four years by and from the active members of the retirement system who shall hold office as a trustee only while an active member; except that, the initial term of office of such trustee shall expire on December 31, 1999.

2. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. **No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancies.**

3. [The members of such board of trustees appointed by the board of education may be members of the board of education or other individuals deemed qualified to hold such positions by the board of education. The] **In the event of a lapse of a school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, or for any other reason, the general administration and the responsibility for the proper operation of the retirement system shall continue to be fully vested in the trustees then currently serving and such trustees shall continue to serve and be elected in the same manner as set forth in this statute as if no lapse had occurred, except that in the event of vacancies occurring in the office of trustees appointed by the board of education prior to the lapse, the board of trustees shall appoint a qualified person or persons to fill such vacancy or vacancies for terms of up to four years.**

4. Trustees shall serve without compensation, and any trustee shall be reimbursed from the expense fund for all necessary expenses which the trustee may incur through service on the board of trustees.

[4.] 5. Each trustee shall, within ten days after such trustee's appointment or election, take an oath of office before the clerk of the circuit court of the judicial circuit in which the school district is located that, so far as it devolves upon the trustee, the trustee will diligently and honestly administer the affairs of the board of trustees and that the trustee will not knowingly

violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the trustee making it and filed in the office of the clerk of the circuit court.

[5.] **6.** The circuit court of the judicial circuit in which the school district is located shall have jurisdiction over the members of the board of trustees to require them to account for their official conduct in the management and disposition of the funds and property committed to their charge; to order, decree and compel payment by them to the public school retirement system of their school district of all sums of money, and of the value of all property which may have been improperly retained by them, or transferred to others, or which may have been lost or wasted by any violation of their duties or abuse of their powers as such members of such board; to remove any such member upon proof that the trustee has abused the trustee's trust or has violated the duties of the trustee's office; to restrain and prevent any alienation or disposition of property of such public school retirement system by the members, in cases where it may be threatened, or there is good reason to apprehend that it is intended to be made in fraud of the rights and interests of such public school retirement system. The jurisdiction conferred by sections 169.410 to 169.540 shall be exercised as in ordinary cases upon petition, filed by the board of education of such school district, or by any two members of the board of trustees. Such petition shall be heard in a summary manner after ten days' notice in writing to the member complained of, and an appeal shall lie from the judgment of the circuit court as in other causes and be speedily determined, but such appeal shall not operate under any condition as a supersedeas of a judgment of removal from office.

[6.] **7.** Each trustee shall be entitled to one vote in the board of trustees. Six votes shall be necessary for a decision by the trustees at any meeting of the board of trustees.

[7.] **8.** Subject to the limitations of sections 169.410 to 169.540, the board of trustees shall, from time to time, establish rules and regulations for the administration of the [assets of the] retirement system, **for eligibility for and determination of benefits under the retirement system, for the investment of retirement system assets,** and for the transaction of [its] **the retirement system's** business.

[8.] **9.** The board of trustees shall elect from its membership a chairman and shall, by majority vote of its members, appoint a secretary, who may be, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the retirement system. It shall also engage an investment counselor who shall be experienced in the investment of moneys to advise the trustees on investments of the retirement system. The compensation of all persons engaged by the board of trustees and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board of trustees shall approve.

[9.] **10.** The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuations of the assets of the retirement system and for checking the experience of the system.

[10.] **11.** The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall prepare annually and send to the board of education and to each member of the retirement system a report showing the fiscal transactions of the retirement system for the preceding fiscal year, a detailed listing of all salaries and expenditures incurred by the trustees for its operation, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system. The board of trustees shall also prepare or cause to be prepared an annual report concerning the operation of the retirement system herein provided for, which report shall be sent by the chairman of the board of trustees to the board of education.

[11.] **12.** The board of trustees shall arrange for necessary legal advice for the operation of the retirement system.

[12.] **13.** The board of trustees shall designate a medical board to be composed of three physicians, none of whom shall be eligible for benefits pursuant to sections 169.410 to 169.540, who shall arrange for and pass upon all medical examinations required pursuant to the provisions of sections 169.410 to 169.540, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it.

[13.] **14.** The actuary shall be the technical adviser of the board of trustees on matters regarding the operation of the system created by sections 169.410 to 169.540 and shall perform such other duties as are required in connection therewith. Such person shall be qualified as an actuary by membership as a fellow in the Society of Actuaries or by [similar] objective standards **which are no less stringent than those established by the Society of Actuaries.**

[14.] **15.** At least once in each five-year period the actuary shall make an investigation into the actuarial experience of the retirement system, and taking into account the results of such investigation of the experience, the board of trustees shall adopt for the retirement system such actuarial assumptions as shall be deemed necessary.

[15.] **16.** On the basis of such actuarial assumptions as the board of trustees shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement system.

[16.] **17.** On the basis of the valuation the board of trustees shall certify the rates of contribution payable by the board of education.

169.460. RETIREMENT, WHEN — PENSIONS, HOW COMPUTED — EARLY RETIREMENT, WHEN, PENSIONS, HOW COMPUTED — DISABILITY RETIREMENT, WHEN, PENSIONS, HOW COMPUTED — DEATH BEFORE RETIREMENT, EFFECT OF — BENEFICIARY DEFINED, BENEFITS, HOW COMPUTED — RETIRANTS MAY BECOME ACTIVE, HOW — MINIMUM BENEFITS, WHEN. — 1. Any member may retire [on a service retirement allowance] **and receive a normal pension** upon his written application to the board of trustees setting forth at what time not less than fifteen days nor more than [ninety] **one hundred eighty** days subsequent to the execution and filing of such application he desires to be retired; provided, that the member at the time so specified for his retirement either (a) shall have attained age sixty-five or (b) shall have attained an age which when added to the number of years of [creditable] **credited** service of such member shall total a sum not less than eighty-five. For purposes of computing any member's age under this section, the board shall, **if necessary**, add to his actual age any accumulated and unused days of sick leave included in his [creditable] **credited** service.

2. Upon retirement [for service under] **pursuant to** subsection 1 of this section, a member shall receive an annual [service retirement allowance] **pension** payable in monthly [service] installments equal to his number of years of [creditable] **credited** service multiplied by [one and one-fourth] **two** percent of his average final compensation **subject to a maximum pension of sixty percent of his average final compensation.**

3. A member who is not eligible for [service retirement under] **normal pension pursuant to** subsection 1 of this section but **who** has attained age sixty and has five or more years of [creditable] **credited** service may make application in the same manner as [under] **pursuant to** subsection 1 of this section for an early [service retirement allowance which shall be a percentage of his projected annual service retirement allowance. His projected annual service retirement allowance shall equal his number of years of creditable service multiplied by one and one-fourth percent of his average final compensation. The percentage of his projected annual service retirement allowance shall be computed by deducting from one hundred percent a sum equal to] **pension. His early pension shall be computed pursuant to subsection 2 of this section, but shall be reduced by** five-ninths of one percent for each month such member's early retirement date precedes the earliest date he could [receive a service retirement allowance under] **have received a normal pension pursuant to** subsection 1 of this section had his service continued.

4. Upon the written application of the member or of the employing board, any active member who has [had] five or more years of [creditable] **credited** service with such board and does not qualify for [service retirement under] **a normal pension pursuant to** subsection 1 of this section may be retired by the board of trustees, not less than fifteen **days** and not more than [ninety] **one hundred eighty** days next following the date of filing such application, [on an ordinary disability retirement allowance;] and receive a disability pension, provided, that the medical board after a medical examination of such member **or such member's medical records** shall certify that such member is unable to further perform his duties due to mental or physical incapacity, and that such incapacity is likely to be permanent and that such member should be retired; **or, provided the member furnishes evidence of the receipt of disability benefits under the federal Old Age, Survivors and Disability Insurance System of the Social Security Act.** The determination of the board of trustees in the matter shall be final and conclusive. A [disability retirant] **member being retired pursuant to this subsection** who has accumulated unused vacation and sick leave may elect to have the commencement of his disability [retirement allowance] **pension** deferred for more than [ninety] **one hundred eighty** days during the period he is entitled to vacation and sick pay.

5. Upon retirement for disability, a member shall receive a disability [retirement allowance which] **pension until such time as he meets the requirements for a normal pension pursuant to subsection 1 of this section, at which time his disability pension will be deemed to be a normal pension.** The member's disability pension shall be the larger of:

(1) A [service retirement allowance] **normal pension** based on his [creditable] **credited** service to the date of his **retirement for** disability [retirement] and calculated as if he were age sixty-five; or

(2) One-fourth of his average final compensation; except that such [allowance] **benefit** shall not exceed the [service retirement allowance] **normal pension** which he would [receive] **have received** upon retirement [had] **if** his service **had** continued and **he had** satisfied the eligibility requirements of subsection 1 of this section and had his final average compensation been unchanged.

6. Once each year during the first five years following retirement [on a] **for** disability [retirement allowance] and once in every three-year period thereafter **while receiving a disability pension**, the board of trustees may, and shall, require any [disability beneficiary] **member receiving a disability pension** who has not yet become eligible for [service retirement] **a normal pension** pursuant to subsection 1 of this section to undergo a medical examination at a place designated by the medical board or by a physician or physicians designated by such board. [Should] **If** any such [disability beneficiary refuse] **member receiving a disability pension refuses** to submit to such medical examination, his [allowance] **benefit** may be discontinued until his withdrawal of such refusal, and [should] **if** his refusal [continue] **continues** for one year, all rights in and to his pension may be revoked by the board of trustees.

7. [Should] **If** the board of trustees [find] **finds** that any [disability retirant] **member receiving a disability pension** is engaged in or is able to engage in a gainful occupation paying more than the difference between his [retirement allowance] **disability pension** plus benefits, if any, to which he and his family are eligible under the federal Old Age, Survivors and Disability Insurance System of the Social Security Act and the current rate of monthly compensation for the position he held at retirement, then the amount of his [retirement allowance] **disability pension** shall be reduced to an amount which together with the amount earnable by him shall equal such current rate of monthly compensation. [Further adjustments in the disability retirement allowance because of earnings changes shall be made by the board of trustees.] The decisions of the board of trustees in regard to such modification of disability [allowance] **benefits** shall be final and conclusive.

8. [Should] **If** any [disability retirant be] **member receiving a disability pension** is restored to service as an employee, he shall again become [a] **an active** member of the retirement system

and contribute thereunder. [If he is under age sixty at date of again becoming a member, his creditable] **His credited** service at the time of his retirement **for disability** shall be restored [to full force and effect,] and the excess of his accumulated contributions at **his retirement for disability** over the total **disability pension** payments which he received [during retirement] shall be credited to his account. [If he is age sixty or over, his disability retirement allowance shall cease and be resumed upon subsequent retirement, together with such retirement allowance as shall accrue by reason of his latest period of membership.]

9. If a member with fewer than five years credited service ceases to be an employee, except by death, he shall be paid the amount of his accumulated contributions in accordance with applicable provisions of the Internal Revenue Code.

[9. Should] **10. If** a member [cease] **with five years or more credited service ceases** to be an employee, except by death or retirement, he shall be paid on demand the amount of his accumulated contributions [standing to the credit of his individual account, provided that a member with five or more years of creditable service may leave], or he may leave his accumulated contributions with the retirement system and be an inactive member and claim a retirement [allowance] **benefit** at any time after he reaches the minimum age for [voluntary] retirement, **except that if such a member's accumulated contributions do not exceed the involuntary distribution limits under provisions of the Internal Revenue Code, the member must elect to become an inactive member within thirty days of employment separation to avoid application of the involuntary distribution provisions of the Internal Revenue Code.** When [his claim is presented] **an inactive member presents his valid claim** to the board of trustees, he shall be granted [an allowance] **a benefit** at such time and for such amount as is available [under] **pursuant to** subsection 2 or 3 of this section in accordance with the provisions of law in effect at the time his active membership ceased. The accumulated contributions of an inactive member may be withdrawn at any time upon ninety days' notice or such shorter notice as is approved by the board of trustees. [Should a] **If an inactive member [die] dies** before retirement, his accumulated contributions shall be paid to his designated beneficiary, if living, otherwise to the estate of the member. A member's accumulated contributions shall not be paid to him so long as he remains in service as an employee.

[10.] **11.** Any member upon retirement shall receive his [benefit in a retirement allowance] **pension** payable throughout life subject to the provision that if his death occurs before he has received total benefits at least as large as his accumulated contributions at retirement, the difference shall be paid in one sum to his designated beneficiary, if living, otherwise to the estate of the retired member.

[11.] **12.** Prior to the date of retirement [under] **pursuant to** subsection 2, 3, or 4 of this section, a member may elect to receive the actuarial equivalent [at that time] of his [retirement allowance] **pension** in a lesser [retirement allowance] **amount**, payable throughout life under one of the following options with the provision that:

Option 1. Upon his death, his [retirement allowance] **pension** shall be continued throughout the life of and paid to his beneficiary, or

Option 2. Upon his death, one-half of his [retirement allowance] **pension** shall be continued throughout the life of and paid to his beneficiary, or

Option 3. Upon his death, his [retirement allowance] **pension** shall be continued throughout the life of and paid to his beneficiary, provided that in the event his designated beneficiary predeceases him, then his [retirement allowance] **pension** shall be adjusted [at that time] **effective the first day of the month following the month in which his designated beneficiary died** to the amount determined [under] **pursuant to** subsection 2 or 3 of this section at the time of his retirement, or

Option 4. Upon his death, one-half of his [retirement allowance] **pension** shall be continued throughout the life of and paid to his beneficiary, provided that in the event his designated beneficiary predeceases him, then his [retirement allowance] **pension** shall be

adjusted [at that time] **effective the first day of the month following the month in which his designated beneficiary died** to the amount determined [under] **pursuant to** subsection 2 or 3 of this section at the time of his retirement.

Option 5. Prior to age sixty-two the member will receive an increased pension, where the total pension prior to age sixty-two is approximately equal to the pension after age sixty-two plus the member's estimated federal Social Security benefit, provided that the reduced pension after age sixty-two is not less than one-half the pension the member could have received had no option been elected.

A member may elect a combination of Option 1 and Option 5, or Option 2 and Option 5. The survivor benefits payable to a beneficiary, other than the spouse of the [retirant] **retired member**, under any of the foregoing options shall in no event exceed fifty percent of the actuarial equivalent of the [retirement allowance] **pension** determined [under] **pursuant to** subsection 2 or 3 of this section at the time of retirement. [The actuarial equivalent of a member's retirement allowance shall be computed as of the earlier of his actual retirement or the date he became eligible for service retirement under subsection 1 of this section.]

[12.] **13.** If an option has been elected [under] **pursuant to** subsection [11] **12** of this section, and both the retired member and beneficiary die before receiving total benefits as large as the member's accumulated contributions at retirement, the difference shall be paid to [a] **the designated beneficiary of the person last entitled to benefits**, if living, otherwise to the estate of the person last entitled to benefits.

[13.] **14.** If an active member dies while an employee and with five or more years of [creditable] **credited** service and a dependent of the member is designated as beneficiary to receive his accumulated contributions, such beneficiary may, in lieu thereof, request that benefits be paid under option 1, subsection [11] **12** of this section, as if the member had attained age sixty, if the member was less than sixty years of age at the time of his death, and had retired under such option as of the date of death, provided that under the same circumstances a member may provide by written designation that benefits must be paid [under] **pursuant to** option 1 to such beneficiary. In addition to benefits received under option 1, subsection [11] **12** of this section, a surviving spouse receiving benefits under this subsection shall receive sixty dollars per month for each unmarried dependent child of the deceased member who is under twenty-two years of age and is in the care of the surviving spouse; provided, that if there are more than three such unmarried dependent children one hundred eighty dollars shall be divided equally among them. A "dependent beneficiary" for the purpose of this subsection only shall mean either the surviving spouse or a person who at the time of the death of the member was receiving at least one-half of his support from the member, and the determination of the board of trustees as to whether a person is a dependent shall be final.

[14. If the board of trustees is unable to refund the contributions of a member or to commence payment of benefits after such refund or benefits are otherwise first due and payable and thereafter, proper application is made for such refund or benefits, the board will make payment of such refund or benefits but no credit will be allowed for interest after the date the refund or benefits were first due and payable.]

15. In lieu of accepting the payment of the accumulated contributions of a member who dies after having at least eighteen months of [creditable] **credited** service and while an employee, an eligible beneficiary or, if no surviving **eligible** beneficiary, the unmarried dependent children of the member under twenty-two years of age may elect to receive the benefits [under] **pursuant to** subdivision (1), (2), (3), or (4) of this subsection. An "eligible beneficiary" is the surviving spouse, unmarried dependent children under twenty-two years of age or dependent parents of the member, if designated as beneficiary. A "dependent" is one receiving at least one-half of his support from the member at his death.

(1) A surviving spouse who is sixty-two years of age at the death of the member or upon becoming such age thereafter, and who was married to the member at least one year, may

receive sixty dollars per month for life. A spouse may receive this benefit after receiving benefits [under] **pursuant to** subdivision (2) of this subsection;

(2) A surviving spouse who has in his or her care an unmarried dependent child of the deceased member under twenty-two years of age may receive sixty dollars per month plus sixty dollars per month for each child under twenty-two years of age but not more than a total of two hundred forty dollars per month;

(3) If no benefits are payable [under] **pursuant to** subdivision (2) of this subsection, unmarried dependent children under the age of twenty-two may receive sixty dollars each per month; provided that if there are more than three such children one hundred eighty dollars per month shall be divided equally among them;

(4) A dependent parent upon attaining sixty-two years of age may receive sixty dollars per month as long as not remarried provided no benefits are payable at any time [under] **pursuant to** subdivision (1), (2), or (3) of this subsection. If there are two dependent parents entitled to benefits, sixty dollars per month shall be divided equally between them;

(5) If the benefits [under] **pursuant to** this subsection are elected and the total amount paid is less than an amount equal to the accumulated contributions of a member at his death, the difference shall be payable to the beneficiary or the estate of the beneficiary last entitled to benefits.

16. [If a retired member dies while receiving a disability retirement allowance, the surviving spouse and children, if any, shall receive benefits under subsection 15 of this section to the same extent as if he had died while an employee, unless such member elected optional benefits under subsection 11 of this section.

17. Should a service retirant again become a] **If a member receiving a normal pension again becomes an active** member, his [retirement allowance] **pension benefit** payments shall cease during such membership and shall be resumed upon subsequent retirement together with such [retirement allowance] **pension benefit** as shall accrue by reason of his latest period of membership. **Except as otherwise provided in section 105.269, RSMo,** a [retirant] **retired member** may not receive a [retirement allowance payment in] **pension benefit for** any month for which he receives compensation from an employing board, except he may serve as a part-time or temporary employee for not to exceed sixty days in any [school] **calendar** year without becoming a member and without having his [retirement allowance] **pension benefit** discontinued. A [retirant] **retired member** may also serve as a member of the board of trustees and receive any [compensation and] reimbursement for expenses allowed him because of such service without becoming [a] **an active** member and without having his [retirement allowance] **pension benefit** discontinued or reduced.

[18.] 17. Upon approval of the board of trustees, any member may make contributions in addition to those required. Any additional contributions shall be accumulated at interest and paid in addition to the benefits provided hereunder. The board of trustees shall make such rules and regulations as it deems appropriate in connection with additional contributions including limitations on amounts of contributions and methods of payment of benefits.

[19.] 18. Notwithstanding any other provisions of this section, any member retiring on or after age sixty-five who [shall have] **has** five or more years of [creditable] **credited** service shall be entitled to an annual [service retirement allowance] **pension** of the lesser of (a) an amount equal to his number of years of [creditable] **credited** service multiplied by one hundred twenty dollars, or (b) one thousand eight hundred dollars. Upon the death of such member, any benefits payable to the beneficiary of such member shall be computed as otherwise provided.

[20. Notwithstanding any other provisions of this section, any member who continues his employment with an employing board after attaining seventy and one-half years of age shall receive service retirement benefits during the continuation of his employment if and to the extent the payment of such service retirement benefits is required by the Internal Revenue Code of 1986, as amended, and Treasury regulations promulgated thereunder; and such service retirement benefits shall be adjusted annually for additional benefits which shall accrue by reason of such

continued employment in accordance with the rules and regulations of the board of trustees. Optional benefits under subsection 11 of this section must be elected by a member prior to the commencement of benefits hereunder.]

[169.462. PRIVATE SCHOOL, DEFINED — MEMBERSHIP CREDIT FOR SERVICE IN PRIVATE SCHOOL, PURCHASE, PAYMENT, REQUIREMENTS. — 1. As used in this section, the term "private school" means a school which is not a part of the public school system of this state and which charges tuition for the rendering of elementary and secondary educational services.

2. A member having membership service in the retirement system provided by sections 169.410 to 169.540, who was, prior to being a member, employed by a private school on a full-time basis and duly certified under the law governing the certification of teachers during all of such employment, may elect to purchase membership credit for service rendered to the private school, but not to exceed three years; provided that he shall be entitled to apply the membership credit thus purchased toward a service retirement. The purchase allowed by this section shall be effected by the member paying to the retirement system with interest an amount based on the annual salary rate of his initial employment in the public school district under the system in which credit is being purchased and the contribution rate in effect in that system at the date of the election to purchase credit. Such payments shall include any payments that would have been made by the employer of the member during the period for which creditable service is being purchased, for each year of creditable service being purchased, plus interest at the rates fixed by the board of trustees. The purchase allowed by this section shall be effected before retirement of the member, and may be paid in installments over a period not to exceed five years. The purchase allowed by this section shall be subject to all rules and regulations of the board of trustees.]

169.466. ANNUAL PENSION INCREASE, WHEN. — 1. Any retired member with fifteen or more years of creditable service at retirement receiving [retirement benefits] **a pension** on August 28, 1997, shall receive on January first of each year, commencing on January 1, 1998, an increase in the amount of [benefits] **pension** received by the retired member pursuant to sections 169.410 to 169.540 during the preceding year of one hundred percent of the increase in the consumer price index calculated in the manner provided in this section; except that, no such increase in [retirement] **pension** benefits shall be paid for any year if such increase in the consumer price index is less than one percent. Such annual [retirement benefit] **pension** increase, however, shall not exceed three percent and the total increases in the amount of [retirement] **pension** benefits received by any retired member shall not, in the aggregate, exceed ten percent of the [retirement] **pension** benefits such retired member received during the year preceding January first of the first year the retired member is entitled to receive an increase pursuant to this section. A retired member qualified to receive an annual [retirement benefit] **pension** increase pursuant to this section shall not be eligible to receive an additional benefit until the January first after the first anniversary of the date on which he or she commenced receiving [retirement benefits] **a pension** pursuant to sections 169.410 to 169.540. Benefits shall not be decreased in the case of a decrease in the consumer price index for any year.

2. For the purpose of this section, any increase in the consumer price index shall be determined by the board of trustees in November of each year based on the consumer price index for the twelve-month period ended on September thirtieth of such year over the consumer price index for the twelve-month period ended on September thirtieth of the year immediately prior thereto. Any increase so determined shall be applied by the board of trustees in calculating increases in [retirement] **pension** benefits that become payable pursuant to this section for the twelve-month period beginning on the January first immediately following such determination.

3. An annual increase in [retirement] **pension** benefits, if any, shall be payable monthly with monthly installments of other [retirement] **pension** benefits pursuant to sections 169.410 to 169.540.

169.471. BOARD OF EDUCATION AUTHORIZED TO INCREASE PENSIONS, ADOPT AND IMPLEMENT ADDITIONAL PLANS. — 1. The board of education is authorized from time to time, in its discretion, to increase the [retirement] **pension** benefits now or hereafter provided pursuant to sections 169.410 to 169.540 and to adopt and implement additional [retirement] **pension** benefits and plans, including without limitation, early retirement plans, deferred retirement option plans and cost-of-living adjustments, but excluding compensation to retired members pursuant to section 169.475, and for such purpose the contribution rate of members of the retirement system may be increased to provide part of the cost thereof, subject to the following conditions:

(1) Any such increase in [retirement] **pension** benefits and additional [retirement] **pension** benefits and plans shall be approved by the board of trustees;

(2) The board of trustees shall have presented to the board of education the projected increases in rates of contribution which will be required to be made by members and the board of education to the retirement system to pay the cost of such increases in [retirement] **pension** benefits and additional [retirement] **pension** benefits and plans; and

(3) Any increase in the contribution rate of members of the retirement system shall be approved by the board of trustees and shall be deducted from the compensation of each member by the employing board and transferred and credited to the individual account of each member from whose compensation the deduction was made, and shall be administered in accordance with sections 169.410 to 169.540; provided that, any such increase in the members' contribution rate shall not exceed one-half of one percent of compensation in any year for such increases to [retirement] **pension** benefits and additional [retirement] **pension** benefits and plans adopted during such year by the board of education pursuant to this section, and all such increases in the members' contribution rate shall, in the aggregate, not exceed two percent of compensation.

169.475. RETIRED MEMBER, EMPLOYMENT AS SPECIAL ADVISOR, DUTIES, COMPENSATION — DISTRICT TO REIMBURSE SYSTEM, WHEN. — 1. Any retired member now receiving [retirement] **pension** benefits, who served five years or more as an employee of the school district and who retired after June 30, 1957, and prior to January 1, 1971, shall, upon application to the retirement system, be employed by that retirement system as a special school advisor and supervisor. Any person so employed shall perform such duties as the board of trustees directs, and shall receive a salary of five dollars per month for each year of service not to exceed seventy-five dollars per month, payable by the retirement system as part of its administrative costs, but the payment to the retired person for such services, together with the [retirement] **pension** benefits the person receives, shall not exceed one hundred fifty dollars per month. The employment provided for by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section.

2. Any retired member now receiving [retirement] **pension** benefits, who served ten years or more as an employee of the school district and who retired prior to January 1, 1955, shall, upon application to the retirement system be employed by that retirement system as a special school advisor and supervisor. Any person so employed shall perform such duties as the board of trustees directs, and shall receive a salary of two hundred fifty dollars per month payable by the retirement system as part of its administrative costs, but payment to the retired person for such services shall be reduced by the [retirement] **pension** benefits the person receives. The employment provided for by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section, subject to the limitation set forth in subsection 3 of this section.

3. Any retired member now receiving [retirement] **pension** benefits who retired prior to January 1, 1976, shall, upon application to the retirement system, be employed by that retirement system as a school consultant. Any person so employed shall perform such duties as the board of trustees directs, and shall receive a salary equal to four dollars per month for each year (or major portion of a year) between the date of the person's retirement and December 31, 1981, plus

two dollars per month for each year (or major portion of a year) between January 1, 1982, and December 31, 1984, and, in addition, shall be entitled to receive the insurance benefits provided [retirants] **retired members** pursuant to section 169.476 payable by the retirement system as part of its administrative costs. The employment provided for by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section, provided that total salaries payable to any retired member pursuant to subsections 2 and 3 of this section shall not exceed two hundred fifty dollars per month.

4. Any retired member now receiving [retirement] **pension** benefits who retired on or after January 1, 1976, and prior to December 31, 1984, shall, upon application to the retirement system, be employed by the retirement system as a school consultant. Any person so employed shall perform such duties as the board of trustees directs and shall receive a salary equal to four dollars per month for each year (or major portion of a year) between the date of the person's retirement and December 31, 1984, and, in addition, shall be entitled to receive the insurance benefits provided [retirants] **retired members** pursuant to section 169.476 payable by the retirement system as part of its administrative costs. The employment provided for by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section.

5. Any retired member now receiving [retirement] **pension** benefits or who retires prior to December 31, 1986, shall, after application to the retirement system, be employed by the retirement system as a school consultant. Any person so employed shall perform such duties as the board of trustees directs and shall receive a salary equal to two dollars per month for each year (or major portion of a year) between the date of the person's retirement and December 31, 1986, payable by the retirement system as part of its administrative costs. The employment provided for by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section.

6. Any retired member now receiving [retirement] **pension** benefits or who retires prior to December 31, 1988, shall, after application to the retirement system, be employed by the retirement system as a school consultant. Any person so employed shall perform such duties as the board of trustees directs and shall receive a salary equal to two dollars per month for each year (or major portion of a year) between the date of the person's retirement and December 31, 1988, payable by the retirement system as part of its administrative costs. The employment provided for by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section.

7. Any retired member now receiving [retirement] **pension** benefits or who retires prior to December 31, 1990, shall, after application to the retirement system, be employed by the retirement system as a school consultant. Any person so employed shall perform such duties as the board of trustees directs and shall receive a salary equal to two dollars per month for each year (or major portion of a year) between the date of the person's retirement and December 31, 1990, not to exceed ten years, payable by the retirement system as part of its administrative costs. The employment provided for by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section.

8. Any retired member now receiving [retirement] **pension** benefits or who retires prior to December 31, 1993, shall, after application to the retirement system, be employed by the retirement system as a school consultant. Any person so employed shall perform such duties as the board of trustees directs and shall receive a salary equal to three dollars per month for each year (or major portion of a year) between the date of the person's retirement and December 31, 1993, payable by the retirement system as part of its administrative costs. The employment provided by this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section.

9. Any retired member now receiving [retirement] **pension** benefits with fifteen years or more creditable service at retirement, shall, after application to the retirement system, be

employed by the retirement system as a consultant. Any person so employed shall, upon the request of the board of trustees, give the board, orally or in writing, a short detailed statement of the problems of retirement under the current monthly benefits. As compensation for the obligation to perform the extra duty imposed by this subsection, each consultant who meets the qualification prescribed in subsection 7 of this section, shall receive, in addition to all other compensation payable pursuant to this section, an increase in compensation each year computed on the total amount which such consultant receives pursuant to this section of one hundred percent of the increase in the consumer price index calculated and payable in the manner specified in section 169.466. A consultant otherwise qualified to receive compensation pursuant to this subsection shall not be eligible to receive such compensation until the January first after he or she has been retired for at least twelve months. Any such annual increase in compensation, however, shall not exceed three percent, and the total increase in compensation pursuant to this subsection shall not exceed ten percent of the total compensation such consultant was receiving pursuant to this section on August 28, 1996. Additional compensation payable pursuant to this subsection shall be payable by the retirement system as part of its administrative costs. The employment provided for in this subsection shall in no way affect any person's eligibility for [retirement] **pension** benefits or for employment pursuant to other subsections of this section.

10. Annually, immediately after the close of the fiscal year of the retirement system, the actuary for the system shall determine if the payments made pursuant to the provisions of this section have impaired the actuarial soundness of the plan, and upon the actuary's certification that the soundness has been so impaired, the system shall bill the school district which last employed the retired person on a full-time basis for reimbursement of the amount paid to that person during the preceding fiscal year. The school district shall forthwith accordingly reimburse the retirement system.

11. Effective January 1, 2002, all payments made pursuant to this section shall be paid as cost-of-living benefits rather than as expenses of the retirement system.

169.476. INSURANCE FOR RETIRED MEMBERS MAY BE PROVIDED — RULES AND REGULATIONS. — The retirement system may contribute toward an insurance plan for the benefit of [retirants] **retired members** which may provide dental, hospital, surgical, medical, life, accident, and similar insurance benefits as approved by the board of trustees. Such contributions shall be a part of the administrative costs of the retirement system. The board of trustees shall make such rules and regulations as it deems appropriate in connection with such plan.

169.480. BOARD TO BE TRUSTEES OF FUNDS — INVESTMENT — INCOME CREDITED — PAYMENTS, HOW MADE — CURRENT FUNDS KEPT — DUTIES OF TRUSTEES. — 1. The board of trustees shall be the trustees of all the funds of the system and shall have full power to invest and reinvest such funds, and such trustees shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such funds shall have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

2. The board of trustees shall annually credit each member's individual account with interest on the largest balance remaining in each account for the entire year and at the rate determined by the board.

3. [The board of trustees shall elect a treasurer of the retirement system who shall be a trustee and who may, but need not, be the treasurer of the board of education, who, subject to such limitations as may be provided by the board of trustees, shall be the custodian of the funds of the retirement system and shall give such bond for the faithful handling of the funds as the board of trustees shall determine.] The board of trustees may employ a bank having fiduciary powers for the provision of such custodial or clerical services as the board may deem appropriate [to assist the treasurer]. Disbursement of funds of the retirement system shall be under the **general** supervision of the [treasurer] **board of trustees** and shall be in accordance with

procedures established or approved by the board of trustees with the concurrence of the system's auditors.

4. For the purpose of meeting disbursements for [retirement allowances] **pensions** and other payments, there may be kept available cash on deposit in one or more banks or trust companies in the school district, organized under the laws of the state of Missouri, or of the United States; provided, that the amount on deposit in any one bank or trust company shall not exceed twenty-five percent of the paid-up capital and surplus of such bank or trust company, and for all deposits the board of trustees shall require of the banks or trust companies as security for the safekeeping and payment of the deposits securities of a like kind and character as may be required by law for the safekeeping and payment of deposits made by the state treasurer.

5. Except as herein provided, no trustee, member of the board of education or employee of either the board of trustees or the board of education shall have any direct interest in the gains or profits of any investment made by the board of trustees. Nor shall any of them directly or indirectly for himself or as an agent in any manner use the assets of the retirement system except to make such current and necessary payments as are authorized by the board of trustees, nor shall any of said persons become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board of trustees.

6. No member of the board of education shall be interested in any contract with or claim against the public school retirement system in his school district. If at any time after the election of any member of the board he becomes interested in any contract or claim against said retirement system, either directly or indirectly, or as agent or employee of any individual, firm or corporation, which is so interested, he shall thereupon be disqualified to continue as a member of the board.

169.490. ASSETS OF SYSTEM TO BE HELD AS ONE FUND — CONTRIBUTION, RATE, HOW COLLECTED. — All the assets of the retirement system shall be held as one fund.

1. (1) The employing board shall cause to be deducted from the compensation of each member at every payroll period [four] **five** percent of his compensation, and the amounts so deducted shall be transferred to the board of trustees and credited to the individual account of each member from whose compensation the deduction was made. In determining the amount earnable by a member in any payroll period, the board of trustees may consider the rate of earnable compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period; it may omit deduction from compensation for any period less than a full payroll period if the employee was not a member on the first day of the payroll period; and to facilitate the making of the deductions, it may modify the deduction required of any member by such amount as shall not exceed one-tenth of one percent of the compensation upon the basis of which such deduction was made.

(2) The deductions provided for herein are declared to be a part of the salary of the member and the making of such deductions shall constitute payments by the member out of his salary or earnings and such deductions shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent to the deductions made and provided for herein, and shall receipt for his full salary or compensation, and the making of said deductions and the payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered during the period covered by the payment except as to benefits provided by sections 169.410 to 169.540.

(3) The employing board may elect to pay member contributions required by this section as an employer pick up of employee contributions under section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and such contributions picked up by the employing board shall be treated as contributions made by members for all purposes of sections 169.410 to 169.540.

2. [Should] **If a [retirant] retired member** receiving a [retirement benefit] **pension** pursuant to sections 169.410 to 169.540 [be] **is** restored to active service and again [become a] **becomes an active** member of the retirement system, there shall be credited to his individual account an amount equal to the excess, if any, of his accumulated contributions at retirement over the total [retirement allowances] **pension benefits** paid to him.

3. [(1) There shall be paid annually to the retirement system by the school district an amount equal to a certain percentage of the total compensation of all members to be known as the "normal cost contribution", and an additional amount equal to a percentage of such compensation to be known as the "accrued liability contribution". The rates percent of such contributions] **Annually, the actuary for the retirement system shall calculate each employer's contribution as an amount equal to a certain percentage of the total compensation of all members employed by that employer. The percentage** shall be fixed on the basis of the liabilities of the retirement system as shown by **the annual** actuarial [valuations] **valuation.** [The retirement system shall make similar contributions for the members who are employees of the system.] **The annual actuarial valuation shall be made on the basis of such actuarial assumptions and the actuarial cost method adopted by the board of trustees, provided that the actuarial cost method adopted shall be in accordance with generally accepted actuarial standards and that the unfunded actuarial accrued liability, if any, shall be amortized by level annual payments over a period not to exceed thirty years.**

[(2) On the basis of such actuarial assumptions as shall be adopted by the board of trustees, the actuary engaged by the board of trustees to make each valuation required during the period over which the accrued liability contribution is payable, at the time of making a valuation, shall determine the uniform and constant percentage of the compensation of all members in service, which, if contributed throughout their remaining period of active service, would be sufficient to provide for the payment of any pension payable on their account. The normal cost contribution rate shall be the rate percent of the compensation of all members obtained by deducting from the total liabilities of the fund the amount of assets in hand to the credit of the fund plus the amount of unfunded accrued liability and dividing the remainder by one percent of the present value of the prospective future compensation of all members in service as computed on the basis of the actuarial assumptions adopted by the board of trustees. The rate percent so determined shall be known as the "normal cost contribution rate".

(3) At the first valuation following December 31, 1980, the actuary engaged by the board of trustees shall compute the accrued liability for retirement allowance and other benefits on account of all members and beneficiaries which is not dischargeable by the assets of the retirement system, less the expense and contingency reserve, and by the value of the prospective normal cost contributions payable on account of such members during the remainder of their active service at the normal cost contribution rate then in force, and such accrued liability not so dischargeable shall be known as the "initial unfunded accrued liability". A calculation shall then be made to determine the level annual amount required to liquidate the initial unfunded accrued liability not later than October 13, 2011. At each valuation following December 31, 1980, the actuary will determine any increases or decreases in the accrued liability resulting from either changes in actuarial assumptions or changes in the benefits under sections 169.410 to 169.540. Such increases or decreases in the accrued liability will be determined by the actuary under the entry age normal-frozen initial liability cost method. The amount so obtained shall be known as a "supplement" to the unfunded accrued liability. A calculation shall then be made to determine the level annual amount required to liquidate the supplement to the unfunded accrued liability by the end of fifty years from the end of the year in which the supplement is created. The level annual amounts required to liquidate the initial unfunded accrued liability and each supplement to the unfunded accrued liability are added together, and the amount so obtained shall be expressed as a percentage of the total earnable compensation of all members in service. This percentage of such total compensation shall be known as the "accrued liability contribution

rate", and shall be payable until the unfunded accrued liability has been liquidated. Provided that the board may authorize a redetermination by the actuary of the unfunded accrued liability contribution rate within the limitation that the unfunded accrued liability will be amortized not later than the end of the fifty years from October 13, 1961, or the end of the year in which the supplement to the unfunded accrued liability was credited.

(4) The accrued liability contribution shall be discontinued as soon as assets of the retirement system, less the expense and contingency reserve, shall equal the present value as actuarially computed and approved by the board of trustees of the total liabilities of the retirement system, less the present value computed on the basis of the normal cost contribution rate then in force of the prospective normal cost contributions to be received on account of members who are at that time in service.]

4. The expense and contingency reserve shall be a reserve for investment contingencies and estimated expenses of administration of the retirement system as determined annually by the board of trustees.

5. Gifts, devises, bequests and legacies may be accepted by the board of trustees to be held and invested as a part of the assets of the retirement system and shall not be separately accounted for except where specific direction for the use of a gift is made by a donor.

169.500. CERTIFICATION OF AMOUNT TO BE PAID TO RETIREMENT SYSTEM, INCLUSION IN ANNUAL BUDGET ESTIMATES. — On or before the first day of [June] **January** of each year the board of trustees shall certify to the board of education, **the board of trustees and the board of regents**, and to the state of Missouri with respect to the contribution for members employed by [the board of regents] **these employers**, the amount which will [become due and payable on or before January first of the year next following to the general reserve fund. The amount so certified shall be included by the board of education in its annual budget estimate.] **be paid to the retirement system on or before December thirty-first of that year. On or before the first day of January of each year the board of trustees shall certify to charter schools and to the state of Missouri with respect to the contribution of members employed by these employers, the amount which will be paid to the retirement system on a monthly basis beginning January first of that year.** The amount so certified shall be [appropriated by the school district and transferred to the retirement system for the ensuing year] **included by the employers in their annual budget estimates.**

169.510. OBLIGATIONS OF SYSTEM PAID HOW — EFFECT OF CHANGE IN LAW. — 1. The payment of all [retirement allowances] **pension benefits**, refunds and other benefits or expenses [under] **pursuant to** the provisions of sections 169.410 to 169.540 and all expenses in connection with the administration and operation of the retirement system are hereby made obligations chargeable against the assets of the retirement system and not of the [school district] **employers**, and the assets of the retirement system shall not be diverted or used for any purpose other than the payment of such obligations.

2. No alteration, amendment or repeal of sections 169.410 to 169.540 shall be deemed to affect the rights of members of any retirement system established thereunder with reference to deposits previously made, or to reduce any accrued or potential benefits to those who are members at the time when such alterations, amendments, or repeal becomes effective or to reduce the amount of any [retirement allowance] **pension benefit** then payable.

169.520. FUNDS NOT SUBJECT TO EXECUTION, GARNISHMENT OR ATTACHMENT AND NOT ASSIGNABLE — EXCEPTIONS. — Any funds created by sections 169.410 to 169.540 while in the charge and custody of the board of trustees of such retirement system shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable except as in sections 169.410 to 169.540 specifically provided **or in the case of a proper order of child support issued through the division of child support enforcement.**

169.540. STATE SHALL CONTRIBUTE NO FUNDS — EXCEPTIONS. — The state of Missouri shall contribute no funds directly or indirectly to finance the plan to pay [retirement allowances] **pension benefits** by appropriation bills or otherwise, except those funds which the district may receive from time to time under a law or laws providing for a general apportionment of school moneys throughout all the state and except employer contributions for members employed by the board of regents which shall be made by the state of Missouri.

169.569. JOINT RULES PROMULGATED, PROCEDURE. — **1.** In accordance with the recommendations made pursuant to section 169.566, the public school retirement system of Missouri, the public school retirement system of the Kansas City school district, the public school retirement system of the St. Louis city school district and the nonteacher school employee retirement system of Missouri created pursuant to this chapter shall promulgate joint rules, which shall provide for the recognition of service toward retirement eligibility rendered by certified and noncertified personnel under any of the four systems. Such rules shall be limited to creditable service established with each system and shall in no event permit any transfer of creditable service or system assets.

2. Rules required pursuant to subsection 1 of this section shall be approved, and may be amended, by a majority of all of the trustees of each board of the four retirement systems. At least thirty days prior to the meeting of any board of one of the four retirement systems to vote on approving or amending such rules, a copy of the proposed rules or amendments shall be filed with the joint committee on public employee retirement.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

169.650. MEMBERSHIP — PRIOR SERVICE CREDIT — REINSTATEMENT — PROCEDURE. — **1.** On and after October 13, 1965, all employees as defined in section 169.600 of districts included in this retirement system shall be members of the system by virtue of their employment, and all persons who had five years of prior service who were employees of districts included in sections 169.600 to 169.710 during the school year next preceding October 13, 1965, but who ceased to be employees prior to October 13, 1965, because of physical disability, shall be members of this system by virtue of that prior service. Individuals who qualify as independent contractors under the common law and are treated as such by their employer shall not be considered employees for purposes of membership in or contributions to the retirement system.

2. Any member who rendered service prior to November 1, 1965, as an employee as defined in section 169.600 in a district or junior college district included in the system may claim credit for that service by filing with the board of trustees a complete and detailed record of the service for which the credit is claimed, together with such supporting evidence as the board may require for verification of the record. To the extent that the board finds the record correct, it shall credit the claimant with prior service and shall notify the claimant of its decision.

3. Membership shall be terminated by failure of a member to earn any membership service credit as a public school employee under this system for five consecutive school years, by death, withdrawal of contributions, or retirement.

4. If a member withdraws or is refunded the member's contributions, the member shall thereby forfeit any creditable service the member may have; provided, however, if such person again becomes a member of the system, the member may elect prior to retirement to reinstate

any creditable service forfeited at the time of withdrawal or refund. The reinstatement shall be effected by the member paying to the retirement system, with interest, the amount of accumulated contributions withdrawn by the member or refunded to the member with respect to the service being reinstated. A member may reinstate less than the total service previously forfeited, in accordance with rules promulgated by the board of trustees. The payment may be made over a period not to exceed the length of the service to be reinstated, beginning from the date of election, or prior to retirement, whichever is earlier, and with interest on the unpaid balance; provided, however, that if a member is retired on disability before completing such payments, the balance due, with interest, shall be deducted from the member's disability retirement allowance.

5. Any person who is an employee of any statewide nonprofit educational association or organization serving the active membership of the nonteacher school employee retirement system of Missouri and who works at least twenty hours per week on a regular basis in a position which is not covered by the public school retirement system of Missouri may be a member of the nonteacher school employee retirement system of Missouri. Certificated employees of such statewide nonprofit educational association or organization may not be members of the public school retirement system of Missouri unless such association or organization makes separate application pursuant to subsection 4 of section 169.130, RSMo. The contributions required to be made by the employee will be deducted from salary and matched by the association or organization.

169.670. BENEFITS, HOW COMPUTED — BENEFICIARY BENEFITS, OPTIONS, ELECTION OF. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and [fifty-one] **sixty-one** hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit;

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, [2000] **2001**, and July 1, 2003, a member may elect to receive a retirement allowance of:

(a) One and [forty-nine] **fifty-nine** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the age of fifty-five;

(b) One and [forty-seven] **fifty-seven** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and [forty-five] **fifty-five** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and [forty-three] **fifty-three** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and [forty-one] **fifty-one** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five; and

(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, [2000] **2001**, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more, shall receive a temporary retirement allowance equivalent to [four-tenths] **eight-tenths** of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for Social Security retirement benefits.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed [seventy-five] **eighty** percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is twenty-five years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after attaining age fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's primary beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section.

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the primary beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or to the person's estate; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances

paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the estate of the beneficiary unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or to the member's estate, if there be no beneficiary; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the estate of the beneficiary.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option, actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the nonteacher school employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code.

14. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

15. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As

compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

16. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and one-tenth percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide equitable treatment and timely application of certain pension benefits and compensation, the repeal and reenactment of sections 169.070 and 169.670 is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 169.070 and 169.670 shall be in full force and effect on July 1, 2001, or upon its passage and approval, whichever later occurs.

Approved June 27, 2001

HB 664 [HB 664]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes changes to charitable gift annuities provisions.

AN ACT to repeal sections 352.500, 352.505, 352.510, 352.515 and 352.520, RSMo 2000, relating to charitable gift annuities, and to enact in lieu thereof five new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 352.500. Definitions.
- 352.505. Notice to department of insurance, contents.
- 352.510. Notice to donors, disclosure, required.
- 352.515. Issuance of annuity not business of insurance.
- 352.520. Department of insurance, duties — fines levied against qualified organizations for failure to comply.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 352.500, 352.505, 352.510, 352.515 and 352.520, RSMo 2000, are repealed and five new sections enacted in lieu thereof, to be known as sections 352.500, 352.505, 352.510, 352.515 and 352.520, to read as follows:

352.500. DEFINITIONS. — As used in sections 352.500 to 352.520, the following terms [shall] mean:

(1) "Charitable gift annuity", a transfer of cash or other property by a donor to a charitable organization in return for an annuity payable over one or two lives, under which the actuarial value of the annuity is less than the value of the cash or other property transferred and the difference in value constitutes a charitable deduction for federal tax purposes;

(2) "Qualified charitable gift annuity", a charitable gift annuity described in Section 501(m)(5) of the Internal Revenue Code, and Section 514(c)(5) of the Internal Revenue Code that is issued by a charitable organization that on the date of the annuity agreement:

(a) Has a minimum of one hundred thousand dollars in unrestricted cash, cash equivalents, or publicly traded securities, exclusive of the assets funding the annuity agreement; and

(b) Has been in continuous operation for at least three years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least three years;

(3) "Qualified organization", an entity described in:

(a) 26 U.S.C. Section 501(c)(3) (1986); or

(b) 26 U.S.C. Section 170(c) (1986).

352.505. NOTICE TO DEPARTMENT OF INSURANCE, CONTENTS. — 1. A qualified organization that issues qualified charitable gift annuities shall notify the department of insurance in writing by the later of ninety days after August 28, [1996] **2001**, or the date on which it enters into the organization's first qualified charitable gift annuity agreement. The notice must:

(1) Be signed by an officer or director of the organization;

(2) Identify the organization; and

(3) Certify that:

(a) The organization is a qualified organization; and

(b) The annuities issued by the organization are qualified charitable gift annuities.

2. The organization shall be required to submit additional information if necessary to determine appropriate penalties that may be applicable [under] **pursuant to** section 352.520.

352.510. NOTICE TO DONORS, DISCLOSURE, REQUIRED. — When entering into an agreement for a qualified charitable gift annuity, the qualified organization shall **promptly** disclose to the donor in writing in the annuity agreement that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the department of insurance or protected by a guaranty association. The notice provisions required by this section must be in a separate paragraph in a print size no smaller than that employed in the annuity agreement generally.

352.515. ISSUANCE OF ANNUITY NOT BUSINESS OF INSURANCE. — The issuance of a qualified charitable gift annuity does not constitute engaging in the business of insurance in this state. A charitable gift annuity issued before August 28, [1996] **2001**, is a qualified charitable gift annuity for purposes of this chapter and the issuance of such charitable gift annuity does not constitute engaging in the business of insurance in the state.

352.520. DEPARTMENT OF INSURANCE, DUTIES — FINES LEVIED AGAINST QUALIFIED ORGANIZATIONS FOR FAILURE TO COMPLY. — The department of insurance may enforce performance of the requirements of sections 352.505 and 352.510 by sending a letter by certified mail, return receipt requested, demanding that the qualified organization comply with the requirements of sections 352.505 and 352.510. The department of insurance may fine the qualified organization in an amount not to exceed one thousand dollars per qualified charitable gift annuity agreement issued until such time as the qualified organization complies with sections 352.505 and 352.510. However, the failure of a qualified organization to comply with the notice requirements imposed [under] **pursuant to** section 352.505 or section 352.510 does not prevent

a charitable gift annuity that otherwise meets the requirements of [this act] **sections 352.500 to 352.520** from constituting a qualified charitable gift annuity.

Approved June 13, 2001

HB 679 [HB 679]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows state employees to take a leave of absence to serve as a bone marrow or human organ donor.

AN ACT to amend chapter 105, RSMo, by adding thereto one new section relating to state employee leave of absence for organ donation.

SECTION

A. Enacting clause.

105.266. Leave of absence granted, state employees, bone marrow or organ donation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 105, RSMo, is amended by adding thereto one new section, to be known as section 105.266, to read as follows:

105.266. LEAVE OF ABSENCE GRANTED, STATE EMPLOYEES, BONE MARROW OR ORGAN DONATION. — **1. Any employee of the state of Missouri, its departments or agencies shall be granted a leave of absence for the time specified for the following purposes:**

(1) Five workdays to serve as a bone marrow donor if the employee provides his or her employer with written verification that he or she is to serve as a bone marrow donor;

(2) Thirty workdays to serve as a human organ donor if the employee provides his or her employer with written verification that he or she is to serve as a human organ donor.

2. An employee who is granted a leave of absence pursuant to this section shall receive his or her base state pay without interruption during the leave of absence. For purposes of determining seniority, pay or pay advancement and performance awards and for the receipt of any benefit that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence.

3. The employer shall not penalize an employee for requesting or obtaining a leave of absence according to this section.

4. The leave authorized by this section may be requested by the employee only if the employee is the person who is serving as the donor.

Approved July 6, 2001

HB 691 [SCS HB 691]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes notice of reregistration of motor vehicles mandatory.

AN ACT to repeal section 301.040, RSMo 2000, relating to notification of motor vehicle reregistration, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

301.040. Notice of motor vehicle registration — applications.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.040, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 301.040, to read as follows:

301.040. NOTICE OF MOTOR VEHICLE REGISTRATION — APPLICATIONS. — The director of revenue [may] **shall** notify each registered motor vehicle owner by mail, at the last known address, within an appropriate period prior to the beginning of the registration period to which he has been assigned, of the date for reregistration. Such notice shall include an application blank for registration and shall specify the amount of license **fees** due and the registration period covered by such license. Application blanks shall also be furnished all branch offices of the department of revenue and license fee offices designated by the director of revenue under the provisions of section 136.055, RSMo, where they shall be made available to any person upon request. **Failure of the owner to receive such notice shall not relieve the owner of the requirement to register pursuant to this chapter.**

Approved June 13, 2001

HB 693 [SCS HB 693]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions relating to the Administrative Hearing Commission.

AN ACT to repeal sections 407.820, 407.822, 621.053, 621.055, 621.155, 621.165, 621.175, 621.185, 621.189 and 621.198, RSMo 2000, relating to administrative procedure, and to enact in lieu thereof seven new sections relating to the same subject.

SECTION

A. Enacting clause.

407.820. Franchisor subject to jurisdiction of Missouri courts and administrative agencies, when — service of process.

407.822. Application for hearing with administrative hearing commission, filing, when — time and place of hearing — notice to parties — final order, when — petition for review of final order — franchisee's right to file application for hearing, when — notice to franchisee, when, exceptions — statement required in franchisor's notice — consolidation of applications — burden of proof.

621.053. Protest to administrative hearing commission pursuant to franchise agreement — filing fee required, when.

621.055. Medical assistance program, suppliers of services — hearing authorized, procedures — compensation for commissioner's extra duties — notice of right to appeal, content.

621.150. Videoconferencing of administrative hearing permitted, when, costs.

621.155. Commission to make declaratory judgments respecting validity of administrative rules.

621.165. Notice on receipt of complaint — contents.

621.175. Hearings on validity of rules not contested case — procedure in hearing.

- 621.185. Decisions on validity of rules.
621.189. Judicial review.
621.198. Commission to make rules of procedure — contents — where filed.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 407.820, 407.822, 621.053, 621.055, 621.155, 621.165, 621.175, 621.185, 621.189 and 621.198, RSMo 2000, are repealed and seven new sections enacted in lieu thereof, to be known as sections 407.820, 407.822, 621.053, 621.055, 621.150, 621.189 and 621.198, to read as follows:

407.820. FRANCHISOR SUBJECT TO JURISDICTION OF MISSOURI COURTS AND ADMINISTRATIVE AGENCIES, WHEN — SERVICE OF PROCESS. — Any person who is engaged or engages directly or indirectly in purposeful contacts within the state of Missouri in connection with the offering, advertising, purchasing, selling, or contracting to purchase or to sell new motor vehicles, or who, being a motor vehicle franchisor, is transacting or transacts any business with a motor vehicle franchisee who maintains a place of business within the state and with whom he has a franchise, shall be subject to the jurisdiction of the courts **and administrative agencies** of the state of Missouri, upon service of process in accordance with the provisions of section 506.510, RSMo, irrespective of whether such person is a manufacturer, importer, distributor or dealer in new motor vehicles.

407.822. APPLICATION FOR HEARING WITH ADMINISTRATIVE HEARING COMMISSION, FILING, WHEN — TIME AND PLACE OF HEARING — NOTICE TO PARTIES — FINAL ORDER, WHEN — PETITION FOR REVIEW OF FINAL ORDER — FRANCHISEE'S RIGHT TO FILE APPLICATION FOR HEARING, WHEN — NOTICE TO FRANCHISEE, WHEN, EXCEPTIONS — STATEMENT REQUIRED IN FRANCHISOR'S NOTICE — CONSOLIDATION OF APPLICATIONS — BURDEN OF PROOF. — 1. Any party seeking relief pursuant to the provisions of sections 407.810 to 407.835 may file an application for a hearing with the administrative hearing commission within the time periods specified in this section. The application for a hearing shall comply with the requirements for a request for agency action set forth in chapter 536, RSMo. Simultaneously, with the filing of the application for a hearing with the administrative hearing commission, the applicant shall send by certified mail, return receipt requested, a copy of the application to the party or parties against whom relief is sought. [Within ten days of receiving] **Upon receipt of** a timely application for a hearing, the administrative hearing commission shall enter an order fixing a date, time and place for a hearing on the record. [Such hearing shall be within forty-five days of the date of the order but the administrative hearing commission may continue the hearing date up to forty-five additional days by agreement of the parties or upon a finding of good cause.] The administrative hearing commission shall send by certified mail, return receipt requested, a copy of the order to the party seeking relief and to the party or parties against whom relief is sought. The order shall also state that the party against whom relief is sought shall not proceed with the initiation of its activity or activities until the administrative hearing commission issues its final decision or order.

2. Unless otherwise expressly provided in sections 407.810 to 407.835, the provisions of chapter 536, RSMo, shall govern hearings and prehearing procedures conducted pursuant to the authority of this section. The administrative hearing commission shall issue **a** final decision or order, in proceedings arising pursuant to the provisions of sections 407.810 to 407.835[, within sixty days from the conclusion of the hearing]. Any final decisions **of the administrative hearing commission** shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part of the hearing, is held and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice of the final decision in such a case. Review pursuant to this section shall be exclusive and decisions of the administrative hearing commission

reviewable pursuant to this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise, except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission with the appropriate court of appeals.

3. Any franchisee receiving a notice from a franchisor pursuant to the provisions of sections 407.810 to 407.835, or any franchisee adversely affected by a franchisor's acts or proposed acts described in the provisions of sections 407.810 to 407.835, shall be entitled to file an application for a hearing before the administrative hearing commission for a determination as to whether the franchisor has good cause for its acts or proposed acts.

4. Not less than sixty days before the effective date of the initiation of any enumerated act pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825, a franchisor shall give written notice to the affected franchisee or franchisees, by certified mail, return receipt requested, except as follows:

(1) Upon the initiation of an act pursuant to subdivision (5) of subsection 1 of section 407.825, such notice shall be given not less than fifteen days before the effective date of such act only if the grounds for the notice include the following:

(a) Transfer of any ownership or interest in the franchised dealership without the consent of the motor vehicle franchisor;

(b) Material misrepresentation by the motor vehicle franchisee in applying for the franchise;

(c) Insolvency of the motor vehicle franchisee or the filing of any petition by or against the motor vehicle franchisee under any bankruptcy or receivership law;

(d) Any unfair business practice by the motor vehicle franchisee after the motor vehicle franchisor has issued a written warning to the motor vehicle franchisee to desist from such practice;

(e) Conviction of the motor vehicle franchisee of a crime which is a felony;

(f) Failure of the motor vehicle franchisee to conduct customary sales and service operations during customary business hours for at least seven consecutive business days unless such closing is due to an act of God, strike or labor difficulty or other cause over which the motor vehicle franchisee has no control; or

(g) Revocation of the motor vehicle franchisee's license;

(2) Upon initiation of an act pursuant to subdivision (7) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a written proposal to consummate such sale or transfer and the receipt of all necessary information and documents generally used by the franchisor to conduct its review. The franchisor's notice of disapproval shall also specify the reasonable standard which the franchisor contends is not satisfied and the reason the franchisor contends such standard is not satisfied. Failure on the part of the franchisor to provide such notice shall be conclusively deemed an approval by the franchisor of the proposed sale or transfer to the proposed transferee. A franchisee's application for a hearing shall be filed with the administrative hearing commission within twenty days from receipt of such franchisor's notice;

(3) Pursuant to paragraphs (a) and (b) of subdivision (14) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a deceased or incapacitated franchisee's designated family member's intention to succeed to the franchise or franchises or of the franchisor's receipt of the personal and financial data of the designated family member, whichever is later.

5. A franchisor's notice to a franchisee or franchisees pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825 shall contain a statement of the particular grounds supporting the intended action or activity which shall include any reasonable standards which were not satisfied. The notice shall also contain at a minimum, on the first page thereof, a conspicuous statement which reads as follows: "NOTICE TO FRANCHISEE: YOU MAY BE

ENTITLED TO FILE A PROTEST WITH THE MISSOURI ADMINISTRATIVE HEARING COMMISSION IN JEFFERSON CITY, MISSOURI, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE CONTENTS OF THIS NOTICE. ANY ACTION MUST BE FILED WITHIN TWENTY DAYS FROM RECEIPT OF THIS NOTICE."

6. When more than one application for a hearing is filed with the administrative hearing commission, the administrative hearing commission may consolidate the applications into one proceeding to expedite the disposition of all relevant issues.

7. In all proceedings before the administrative hearing commission pursuant to this section, section 407.825 and section 621.053, RSMo, where the franchisor is required to give notice pursuant to subsection 4 of this section, the franchisor shall have the burden of proving by a preponderance of the evidence that good cause exists for its actions. In all other actions, the franchisee shall have the burden of proof.

621.053. PROTEST TO ADMINISTRATIVE HEARING COMMISSION PURSUANT TO FRANCHISE AGREEMENT — FILING FEE REQUIRED, WHEN. — Any person authorized to protest any action taken by a motor vehicle, **motorcycle or all-terrain vehicle** manufacturer, distributor or representative pursuant to a [motor vehicle] franchise agreement may file a protest with the administrative hearing commission as provided in [sections 407.810 to 407.835] **chapter 407, RSMo. For cases arising pursuant to chapter 407, RSMo, the administrative hearing commission may, by rule, establish a filing fee equal to the filing fee of the circuit court of Cole County.**

621.055. MEDICAL ASSISTANCE PROGRAM, SUPPLIERS OF SERVICES — HEARING AUTHORIZED, PROCEDURES — COMPENSATION FOR COMMISSIONER'S EXTRA DUTIES — NOTICE OF RIGHT TO APPEAL, CONTENT. — 1. Any person authorized [under] **pursuant to** section 208.153, RSMo, to provide services for which benefit payments are authorized [under] **pursuant to** section 208.152, RSMo, may seek review by the administrative hearing commission of any of the actions of the department of social services specified in subsection 2, 3, [or] 4 **or 5** of section 208.156, RSMo. The review may be instituted by the filing of a petition with the administrative hearing commission. The procedures applicable to the processing of such review shall be those established by chapter 536, RSMo. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in any review governed by this section, and copies thereof shall be made available to any interested person upon the payment of a fee which shall not exceed the reasonable cost of preparation and supply. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. If the provider of services prevails in any dispute [under] **pursuant to** this section, interest shall be allowed at the rate of eight percent per annum upon any amount found to have been wrongfully denied or withheld. In any proceeding before the administrative hearing commission [under] **pursuant to** this section the burden of proof shall be on the provider of services seeking review.

2. As compensation for the additional duties imposed upon the administrative hearing commission [under] **pursuant to** the provisions of this section and section 208.156, RSMo, each commissioner shall annually receive the sum of five thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Such additional compensation shall be paid in the same manner and at the same time as other compensation for the commissioners.

3. Any decision of the department of social services that is subject to appeal to the administrative hearing commission pursuant to subsection 1 of this section shall contain a notice of the right to appeal in substantially the following language:

If you were adversely affected by this decision, you may appeal this decision to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days from the date of mailing or delivery of this decision, whichever is earlier; except that claims of less than five hundred dollars

may be accumulated until such claims total that sum and, at which time, you have ninety days to file the petition. If any such petition is sent by registered mail or certified mail, the petition will be deemed filed on the date it is mailed. If any such petition is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

621.150. VIDEOCONFERENCING OF ADMINISTRATIVE HEARING PERMITTED, WHEN, COSTS. — Any party to a case before the administrative hearing commission may request that the hearing be held via videoconferencing. If that request is granted, the office of administration may charge the requesting party the costs for the videoconferencing.

[621.155. COMMISSION TO MAKE DECLARATORY JUDGMENTS RESPECTING VALIDITY OF ADMINISTRATIVE RULES. — The administrative hearing commission shall conduct hearings, make findings of fact and conclusions of law, and issue decisions in those cases involving complaints filed pursuant to the provisions of section 536.050, RSMo.]

[621.165. NOTICE ON RECEIPT OF COMPLAINT — CONTENTS. — Upon receipt of a written complaint filed pursuant to section 536.050, RSMo, the administrative hearing commission shall as soon as practicable thereafter give notice of such complaint and the date upon which the hearing will be held by delivery of a copy, or by certified mail, of such complaint and notice both to the office of the agency whose authority is challenged and to the complainant.]

[621.175. HEARINGS ON VALIDITY OF RULES NOT CONTESTED CASE — PROCEDURE IN HEARING. — Hearings in cases filed pursuant to section 536.050, RSMo, shall not be deemed to be contested cases and the procedures established by chapter 536, RSMo, or any other procedural requirements applicable to contested cases shall not apply to such hearings unless required by the provisions of the law relating to the administrative hearing commission, other independent statute or by constitutional provision. Unless the administrative hearing commission rules that special circumstances so require, and sets forth in writing such special circumstances and the reasons why they so require, evidentiary submissions shall be limited to written exhibits, physical evidence, testimony of persons present at the hearing, and affidavits. Cross-examination of persons testifying may be permitted, but shall be limited to situations where there are genuinely disputed questions of material facts. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings, and copies thereof shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply. Rules of discovery shall not apply to hearings held under this section, but the administrative hearing commission, at the request of a party, or on its own motion, may issue subpoenas duces tecum, but not subpoenas ad testificandum, subject to and consistent with the procedures set forth in section 536.077, RSMo. In cases heard under this section the administrative hearing commission may take judicial notice of judicially cognizable facts as well as generally recognized technical or internal administrative facts of which the administrative hearing commission has specialized knowledge. Parties shall be notified either before the hearing, or during the hearing, or by reference in preliminary reports, or otherwise, of the material so to be noticed and shall be afforded an opportunity to contest or to object to the noticing of such material.]

[621.185. DECISIONS ON VALIDITY OF RULES. — Decisions after hearings in cases filed pursuant to 536.050, RSMo, shall be in writing and shall include or be accompanied by findings of fact and conclusions of law together with a statement of findings upon which the administrative hearing commission bases its decision. The administrative hearing commission shall as soon as practicable upon its decision either deliver or send by certified mail both notice

of its decision as well as a copy of the full decision itself to each party to the proceeding or to his attorney of record.]

621.189. JUDICIAL REVIEW. — Final decisions of the administrative hearing commission in cases arising [under the provisions of sections 621.155 and 536.050, RSMo, and under] **pursuant to** the provisions of section 621.050 shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part thereof, is held or, where constitutionally required or ordered by transfer, to the supreme court, and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice thereof in such a case. Review under this section shall be exclusive, and decisions of the administrative hearing commission reviewable [under] **pursuant to** this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission in the case with the appropriate court of appeals.

621.198. COMMISSION TO MAKE RULES OF PROCEDURE — CONTENTS — WHERE FILED. — The administrative hearing commission shall publish and file with the secretary of state [independent sets of] rules of procedure for the conduct of proceedings before it. [One set of rules shall apply exclusively to proceedings in licensing cases under section 621.045. Another set of rules shall apply exclusively to challenges to agency authority brought under section 621.155. A third set of rules shall apply to sales and use and income tax disputes under section 621.050.] Rules of procedure adopted [under the authority of] **pursuant to** this section shall be designed to simplify the maintenance of actions and to enable review to be sought, where appropriate, without the need to be represented by independent counsel. [Each set of rules shall be promulgated under the procedures set forth in sections 536.020 to 536.035, RSMo] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

Approved June 13, 2001

HB 732 [HB 732]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises Water Patrol law.

AN ACT to repeal section 306.165, RSMo 2000, relating to the water patrol, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

306.165. Water patrol officer, powers, duties and jurisdiction of.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 306.165, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 306.165, to read as follows:

306.165. WATER PATROL OFFICER, POWERS, DUTIES AND JURISDICTION OF. — Each water [patrolman] **patrol officer** appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his **or her** duties, shall take and subscribe an oath of office to perform [his] **all** duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting [him] all the powers of a peace officer to enforce all laws of this state, upon all of the following:

(1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;

(2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;

(3) All land within three hundred feet of the areas in subdivision (2) of this section;

(4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;

(5) All land adjoining and within six hundred feet of the rivers and streams of this state;

(6) Any other jurisdictional area, pursuant to the provisions of section 306.167.

Each water [patrolman] **patrol officer** may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each water [patrolman] **patrol officer** may arrest on view[,] and without a warrant[,] any person he **or she** sees violating or who [he] **such patrol officer** has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his **or her** jurisdiction as provided in this section. [It is further provided that each water patrolman shall be bonded in like manner and amount as sheriffs under section 57.020, RSMo.] Each water [patrolman] **patrol officer** shall, within six months after receiving [his] **a** certificate of appointment, satisfactorily complete a law enforcement training course including six hundred hours of actual instruction conducted by a duly constituted law enforcement agency or any other school approved [under] **pursuant to** chapter 590, RSMo.

Approved June 8, 2001

HB 738 [SS HCS HB 738]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the law governing small loans.

AN ACT to repeal sections 135.230, 139.050, 139.052, 139.053, 148.064, 148.400, 301.600, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530, 408.052, 408.140, 408.500 and 513.430, RSMo 2000, relating to financial services, and to enact in lieu thereof thirty-nine new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 135.230. Tax credits and exemptions, maximum period granted — calculation formula — employee requirements, waived or reduced, when — motor carrier, tax credits, conditions — expansion of boundaries of enterprise zone — petition for additional period, qualifications.
- 139.050. Taxes payable in installments — exemption for property taxes paid by financial institutions.
- 139.052. Taxes payable in installments may be adopted by ordinance in any county — delinquency, interest rate — payment not to affect right of taxpayer to protest — exemption for property taxes paid by financial institutions.
- 139.053. Property taxes, how paid — estimates — interest — refunds — exemption for property taxes paid by financial institutions.
- 148.064. Ordering and limit reductions for certain credits — consolidated return — transfers of credits — effect of repeal of corporation franchise tax — pass through of tax credits by S corporation bank.
- 148.400. Deductions allowed insurance companies.
- 301.600. Liens and encumbrances, how perfected — effect of on vehicles and trailers brought into state — security procedures for verifying electronic notices.
- 362.044. Stockholders' meetings — notice — business by proxy, cancellation of meetings.
- 362.105. Powers and authority of banks and trust companies.
- 362.106. Additional powers.
- 362.109. Restrictions on orders and ordinances of political subdivisions.
- 362.119. Investment in trust companies by bank, limitations — definition.
- 362.170. Unimpaired capital, defined — restrictions on loans, and total liability to any one person.
- 362.270. Organizational meeting of directors.
- 362.325. Charter amended — procedure — notice — duty of director — appeal.
- 362.335. Officers and employees — limitation on powers.
- 362.495. When payment and withdrawals may be suspended.
- 362.935. Director of finance to administer — rules and orders authorized.
- 362.942. Bank holding company with operations principally out of state, acquiring Missouri bank, limitations, severability clause, effect.
- 367.100. Definitions.
- 367.215. Failure to file audit report, effect of — surety bond posted, when.
- 367.500. Definitions.
- 367.503. Allows division of finance to regulate lending on titled property.
- 367.506. Licensure of title lenders, penalty.
- 367.509. Qualifications of applicants, fee, license issued, when.
- 367.512. Title loan requirements — liability of borrower.
- 367.515. Interest rate for title loans, maximum — fee charged — repossession charge, when.
- 367.518. Title loan agreements, contents, form.
- 367.521. Redemption of certificate of title — expiration or default, lender may proceed against collateral.
- 367.524. Records of loan agreements.
- 367.525. Notice to borrower prior to acceptance of title loan application.
- 367.527. Limitations of title lenders.
- 367.530. Safekeeping of certificates of title — liability insurance maintained, when — liability of title lender.
- 367.531. Applicability to certain transactions.
- 367.532. Violations, penalties.
- 408.052. Points prohibited, exception — penalties for illegal points — violation a misdemeanor — default charge authorized, when, exceptions.
- 408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
- 408.500. Unsecured loans under five hundred dollars, licensure of lenders, interest rates and fees allowed — penalties for violations — cost of collection expenses — notice required, form.
- 427.220. Commissions and consideration paid to depository institutions not to be more limited than those paid to insurance agencies — definitions.
- 513.430. Property exempt from attachment — benefits from certain employee plans, exception — bankruptcy proceeding, fraudulent transfers, exception — construction of section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.230, 139.050, 139.052, 139.053, 148.064, 148.400, 301.600, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530, 408.052, 408.140, 408.500 and 513.430, RSMo 2000, are repealed and thirty-nine new sections enacted in lieu thereof, to be known as sections 135.230, 139.050, 139.052, 139.053, 148.064, 148.400, 301.600, 362.044, 362.105, 362.106, 362.109, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935,

367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.525, 367.527, 367.530, 367.531, 367.532, 408.052, 408.140, 408.500, 427.220 and 513.430, to read as follows:

135.230. TAX CREDITS AND EXEMPTIONS, MAXIMUM PERIOD GRANTED — CALCULATION FORMULA — EMPLOYEE REQUIREMENTS, WAIVED OR REDUCED, WHEN — MOTOR CARRIER, TAX CREDITS, CONDITIONS — EXPANSION OF BOUNDARIES OF ENTERPRISE ZONE — PETITION FOR ADDITIONAL PERIOD, QUALIFICATIONS. — 1. The exemption or credit established and allowed by section 135.220 and the credits allowed and established by subdivisions (1), (2), (3) and (4) of subsection 1 of section 135.225 shall be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such, subject, however, to the limitation that all such credits allowed in sections 135.225 and 135.235 and the exemption allowed in section 135.220 shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant to section 135.220 unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two or the new business facility is a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the exemption pursuant to section 135.220 or the credit pursuant to subdivision (4) of subsection 1 of section 135.225, or both, it shall be required that at least thirty percent of new business facility employees, as determined by subsection 4 of section 135.110, meet the criteria established in section 135.240 or are residents of an enterprise zone or some combination thereof, except taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an insurance company that established a new business facility satisfying the requirements of subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and before December 31, 1994, and that employs in excess of three hundred fifty new business facility employees at such facility each tax period for which the credits allowable pursuant to subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to meet such requirement. A new business facility described as SIC 3751 shall be required to employ fifteen percent of such employees instead of the required thirty percent. For the purpose of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for a period of at least one full calendar month and must have been employed at the new business facility for at least one full calendar month, and persons qualifying because they meet the requirements of section 135.240 must have satisfied such requirement at the time they were employed by the new business facility and must have been employed at the new business facility for at least one full calendar month. The director may temporarily reduce or waive this requirement for any business in an enterprise zone with ten or less full-time employees, and for businesses with eleven to twenty full-time employees this requirement may be temporarily reduced. No reduction or waiver may be granted for more than one tax period and shall not be renewable. The exemptions allowed in sections 135.215 and 135.220 and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245 shall not be allowed to any "public utility", as such term is defined in section 386.020, RSMo. **For the purposes of achieving the fifteen percent employment requirement set forth in this subsection, a new business facility described as NAICS 336991 may count employees who were residents of the enterprise zone at the time they were employed by the new business facility and for at least ninety days thereafter, regardless of whether such employees continue to reside in the enterprise zone, so long as**

the employees remain employed by the new business facility and residents of the state of Missouri.

2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge lines or railroads engaged in transporting property for hire or any interexchange telecommunications company that establish a new business facility shall be eligible to qualify for the exemptions allowed in sections 135.215 and 135.220, and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245, except that trucks, truck-trailers, truck semitrailers, rail or barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business facility investment nor shall truck drivers or rail or barge vehicle operators constitute new business facility employees.

3. Notwithstanding any other provision of sections 135.200 to 135.256 to the contrary, motor carriers establishing a new business facility on or after January 1, 1993, but before January 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and 135.235 and the exemption provided in section 135.220, even if such new business facility has not satisfied the employee criteria, provided that such taxpayer employs an average of at least two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an average investment of at least ten million **dollars** at such facility, exclusive of rolling stock, during the tax period for which such credits and exemption are being claimed.

4. Any governing authority having jurisdiction of an area that has been designated an enterprise zone may petition the department to expand the boundaries of such existing enterprise zone. The director may approve such expansion if the director finds that:

(1) The area to be expanded meets the requirements prescribed in section 135.207 or 135.210, whichever is applicable;

(2) The area to be expanded is contiguous to the existing enterprise zone; **and**

(3) The number of expansions do not exceed three after August 28, 1994.

5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this section, any governing authority having jurisdiction of an area that has been designated as an enterprise zone by the director, except one designated pursuant to this subsection, may file a petition, as prescribed by the director, for redesignation of such area for an additional period not to exceed seven years following the fifteenth anniversary of the enterprise zone's initial designation date; provided:

(1) The petition is filed with the director within three years prior to the date the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 are required to be removed pursuant to subsection 1 of this section;

(2) The governing authority identifies and conforms the boundaries of the area to be designated a new enterprise zone to the political boundaries established by the latest decennial census, unless otherwise approved by the director;

(3) The area satisfies the requirements prescribed in subdivisions (3), (4) and (5) of section 135.205 according to the latest decennial census or other appropriate source as approved by the director;

(4) The governing authority satisfies the requirements prescribed in sections 135.210, 135.215 and 135.255;

(5) The director finds that the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation; and

(6) The director's recommendation that the area be designated as an enterprise zone, is approved by the joint committee on economic development policy and planning, as otherwise required in subsection 3 of section 135.210.

6. Any taxpayer having established a new business facility in an enterprise zone except one designated pursuant to subsection 5 of this section, who did not earn the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 for the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this section,

shall be granted such benefits for ten tax years, less the number of tax years the benefits were claimed or could have been claimed prior to the expiration of the original fifteen-year period, except that such tax benefits shall not be earned for more than seven tax periods during the ensuing seven-year period, provided the taxpayer continues to operate the new business facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section. Any taxpayer who establishes a new business facility subsequent to the commencement of the ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax credits authorized in sections 135.225 and 135.235, and the exemptions authorized in sections 135.215 and 135.220, pursuant to the same terms and conditions as prescribed in sections 135.100 to 135.256. The designation of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of section 135.210.

139.050. TAXES PAYABLE IN INSTALLMENTS — EXEMPTION FOR PROPERTY TAXES PAID BY FINANCIAL INSTITUTIONS. — 1. In all constitutional charter cities in this state which have seven hundred thousand inhabitants or more, all current and all delinquent general, school and city taxes may be paid entirely, or in installments of at least twenty-five percent of the taxes, and the delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The director of revenue shall issue receipts for the partial payments.

3. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in Section 381.410, RSMo., who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

139.052. TAXES PAYABLE IN INSTALLMENTS MAY BE ADOPTED BY ORDINANCE IN ANY COUNTY — DELINQUENCY, INTEREST RATE — PAYMENT NOT TO AFFECT RIGHT OF TAXPAYER TO PROTEST — EXEMPTION FOR PROPERTY TAXES PAID BY FINANCIAL INSTITUTIONS. — 1. The governing body of any county may by ordinance or order provide for the payment of all or any part of current and delinquent real property taxes, in such installments and on such terms as the governing body deems appropriate. Additionally, the county legislative body may limit the right to pay such taxes in installments to certain classes of taxpayers, as may be prescribed by ordinance or order. Any delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The county official charged with the duties of the collector shall issue receipts for any installment payments.

3. Installment payments made at any time during a tax year shall not affect the taxpayer's right to protest the amount of such tax payments under applicable provisions of law.

4. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in Section 381.410 RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

139.053. PROPERTY TAXES, HOW PAID — ESTIMATES — INTEREST — REFUNDS — EXEMPTION FOR PROPERTY TAXES PAID BY FINANCIAL INSTITUTIONS. — 1. The governing body of any county, excluding township counties, may by ordinance or order provide for the payment of all or any part of current real and personal property taxes which are owed, at the option of the taxpayer, on an annual, semiannual or quarterly basis at such times as determined by such governing body.

2. The ordinance shall provide the method by which the amount of property taxes owed for the current tax year in which the payments are to be made shall be estimated. The collector shall submit to the governing body the procedures by which taxes will be collected pursuant to

the ordinance or order. The estimate shall be based on the previous tax year's liability. A taxpayer's payment schedule shall be based on the estimate divided by the number of pay periods in which payments are to be made. The taxpayer shall at the end of the tax year pay any amounts owed in excess of the estimate for such year. The county shall at the end of the tax year refund to the taxpayer any amounts paid in excess of the property tax owed for such year. No interest shall be paid by the county on excess amounts owed to the taxpayer. Any refund paid the taxpayer pursuant to this subsection shall be an amount paid by the county only once in a calendar year.

3. If a taxpayer fails to make an installment payment of a portion of the real or personal property taxes owed to the county, then such county may charge the taxpayer interest on the amount of property taxes still owed for that year.

4. Any governing body enacting the ordinance or order specified in this section shall first agree to provide the county collector with reasonable and necessary funds to implement the ordinance or order.

5. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in Section 381.410 RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

148.064. ORDERING AND LIMIT REDUCTIONS FOR CERTAIN CREDITS — CONSOLIDATED RETURN — TRANSFERS OF CREDITS — EFFECT OF REPEAL OF CORPORATION FRANCHISE TAX — PASS THROUGH OF TAX CREDITS BY S CORPORATION BANK. — 1. Notwithstanding any law to the contrary, this section shall determine the ordering and limit reductions for certain taxes and tax credits which may be used as credits against various taxes paid or payable by banking institutions. Except as adjusted in subsections 2, 3 and 6 of this section, such credits shall be applied in the following order until used against:

- (1) The tax on banks determined under subdivision (2) of subsection 2 of section 148.030;
- (2) The tax on banks determined under subdivision (1) of subsection 2 of section 148.030;
- (3) The state income tax in section 143.071, RSMo.

2. The tax credits permitted against taxes payable pursuant to subdivision (2) of subsection 2 of section 148.030 shall be utilized first and include taxes referenced in subdivisions (2) and (3) of subsection 1 of this section, which shall be determined without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such taxes. Where a banking institution subject to this section joins in the filing of a consolidated state income tax return under chapter 143, RSMo, the credit allowed under this section for state income taxes payable under chapter 143, RSMo, shall be determined based upon the consolidated state income tax liability of the group and allocated to a banking institution, without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such consolidated taxes as provided in chapter 143, RSMo.

3. The taxes referenced in subdivisions (2) and (3) of subsection 1 of this section may be reduced by the tax credits in subsection 5 of this section without regard to any adjustments in subsection 2 of this section.

4. To the extent that certain tax credits which the taxpayer is entitled to claim are transferable, such transferability may include transfers among such taxpayers who are members of a single consolidated income tax return, and this subsection shall not impact other tax credit transferability.

5. For the purpose of this section, the tax credits referred to in subsections 2 and 3 shall include tax credits available for economic development, low-income housing and neighborhood assistance which the taxpayer is entitled to claim for the year, including by way of example and not of limitation, tax credits pursuant to the following sections: section 32.115, RSMo, section 100.286, RSMo, and sections 135.110, 135.225, 135.352 and 135.403, RSMo.

6. For tax returns filed on or after January 1, 2001, including returns based on income in the year 2000, and after, a banking institution shall be entitled to an annual tax credit equal to one-sixtieth of one percent of its outstanding shares and surplus employed in this state if the outstanding shares and surplus exceed one million dollars, determined in the same manner as in section 147.010, RSMo. This tax credit shall be taken as a dollar-for-dollar credit against the bank tax provided for in subdivision (2) of subsection 2 of section 148.030; if such bank tax was already reduced to zero by other credits, then against the corporate income tax provided for in chapter 143, RSMo.

7. In the event the corporation franchise tax in chapter 147, RSMo, is repealed by the general assembly, there shall also be a reduction in the taxation of banks as follows: in lieu of the loss of the corporation franchise tax credit reduction in subdivision (1) of subsection 2 of section 148.030, the bank shall receive a tax credit equal to one and one-half percent of net income as determined in this chapter. This subsection shall take effect at the same time the corporation franchise tax in chapter 147, RSMo, is repealed.

8. An S corporation bank or bank holding company that otherwise qualifies to distribute tax credits to its shareholders, shall pass through any tax credits referred to in subsection 5 of this section to its shareholders as otherwise provided for in subsection 9 of section 143.471, RSMo, with no reductions or limitations resulting from the transfer through such S corporation, and on the same terms originally made available to the original taxpayer, subject to any original dollar or percentage limitations on such credits, and when such S corporation is the original taxpayer, treating such S corporation as having not elected Subchapter S status.

9. Notwithstanding any law to the contrary, in the event the corporation franchise tax in chapter 147, RSMo, is repealed by the general assembly, after such repeal all Missouri taxes of any nature and type imposed directly or used as a tax credit against the bank's taxes, shall be passed through to the S corporation bank or bank holding company shareholder in the form otherwise permitted by law, except for the following:

(1) Credits for taxes on real estate and tangible personal property owned by the bank and held for lease or rental to others;

(2) Contributions paid pursuant to the unemployment compensation tax law of Missouri; or

(3) State and local sales and use taxes collected by the bank on its sales of tangible personal property and the services enumerated in chapter 144, RSMo.

148.400. DEDUCTIONS ALLOWED INSURANCE COMPANIES. — All insurance companies or associations organized in or admitted to this state may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, income taxes, franchise taxes, personal property taxes, valuation fees, registration fees and examination fees paid, including taxes and fees paid by the attorney in fact of a reciprocal or interinsurance exchange to the extent attributable to the principal business as such attorney in fact, under any law of this state. **Unless rejected by the general assembly by April 1, 2003, for all tax years beginning on or after January 1, 2003, a deduction for examination fees which exceeds an insurance company's or association's premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed; except that, notwithstanding the provisions of section 148.380, if any deduction is claimed through the carryforward provisions of this section, it shall be credited wholly against the general revenue fund and shall not cause a reduction in revenue to the county foreign insurance fund.**

301.600. LIENS AND ENCUMBRANCES, HOW PERFECTED — EFFECT OF ON VEHICLES AND TRAILERS BROUGHT INTO STATE — SECURITY PROCEDURES FOR VERIFYING ELECTRONIC NOTICES. — 1. Unless excepted by section 301.650, a lien or encumbrance on

a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. **Subject to the provisions of section 301.620**, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. **To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620.** The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

3. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

4. If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by

the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

362.044. STOCKHOLDERS' MEETINGS — NOTICE — BUSINESS BY PROXY, CANCELLATION OF MEETINGS. — 1. Stockholders' meetings may be held at such place, within this state, as may be prescribed in the bylaws. In the absence of any such provisions, all meetings shall be held at the principal banking house of the bank or trust company.

2. An annual meeting of stockholders for the election of directors shall be held on a day which each bank or trust company shall fix by its bylaws; and if no day be so provided, then on the second Monday of January.

3. Special meetings of the stockholders may be called by the directors or upon the written request of the owners of a majority of the stock.

4. Notice of annual or special stockholders' meetings shall state the place, day and hour of the meeting, and shall be published at least ten days prior to the meeting and once a week after the first publication with the last publication being not more than seven days before the day fixed for such meeting, in some daily or weekly newspaper printed and published in the city or town in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in the county in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in an adjoining county. A written or printed copy of the notice shall be delivered personally or mailed to each stockholder at least ten but not more than fifty days prior to the day fixed for the meeting, and shall state, in addition to the place, day and hour, the purpose of any special meeting or an annual meeting at which the stockholders will consider a change in the par value of the corporation stock, the issuance of preferred shares, a change in the number of directors, an increase or reduction of the capital stock of the bank or trust company, a change in the length of the corporate life, an extension or change of its business, a change in its articles to avail itself of the privileges and provisions of this chapter, or any other change in its articles in any way not inconsistent with the provisions of this chapter. Any stockholder may waive notice by causing to be delivered to the secretary during, prior to or after the meeting a written, signed waiver of notice, or by attending such meeting except where a stockholder attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5. Unless otherwise provided in the articles of incorporation, a majority of the outstanding shares entitled to vote at any meeting represented in person or by proxy shall constitute a quorum at a meeting of stockholders; provided, that in no event shall a quorum consist of less than a majority of the outstanding shares entitled to vote, but less than a quorum shall have the right successively to adjourn the meeting to a specified date no longer than ninety days after the adjournment, and no notice need be given of the adjournment to shareholders not present at the meeting. Every decision of a majority of the quorum shall be valid as a corporate act of the bank or trust company unless a larger vote is required by this chapter.

6. (1) The stockholders of the bank or trust company may approve business by proxy and cancel any stockholders' meeting, provided:

(a) The stockholders are sent notice of such stockholders' meeting and a proxy referred to in this section;

(b) Within such proxy the stockholders are given the opportunity to approve or disapprove the cancellation of such stockholders' meeting;

(c) At least eighty percent of such bank or trust company's stock is voted by proxy; and

(d) All stockholders voting by proxy vote to cancel such stockholders' meeting.

(2) No business shall be voted on by proxy other than that expressly set out and clearly explained by the proxy material. If such stockholders' meeting is canceled by proxy, notice of such cancellation shall be sent to all stockholders at least five days prior to the date originally set for such stockholders' meeting. The corporate secretary shall reflect all proxy votes by subject and in chronological order in the board of directors' minute book. The notice for such stockholders' meeting shall state the effective date of any of the following: new directors' election, change in corporate structure and any other change requiring stockholder approval.

7. The voting shareholder or shareholders of the bank or trust company may transact all business required at an annual or special stockholders' meeting by unanimous written consent.

362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES. — 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) **Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of subsection 1 of this section where the majority of the stock**

or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

[(7)] (8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

[(8)] (9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

[(9)] (10) Purchase, lease, hold or convey real property for the following purposes:

(a) With the approval of the director, plots whereon there is or may be erected a building or buildings suitable for the convenient conduct of its functions or business or for customer or employee parking even though a revenue may be derived from portions not required for its own use, and as otherwise permitted by law;

(b) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business;

(c) Real property purchased at sales under judgment, decrees or liens held by it;

[(10)] (11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408, RSMo, are not applicable;

[(11)] (12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any

customer services through any system of electronic funds transfer at places other than bank premises;

[(12)] (13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (9) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

[(13)] (14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409, RSMo, regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

[(14)] (15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

[(15)] (16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Invest up to its legal loan limit in a building or buildings suitable for the convenient conduct of its business, including, but not limited to, a building or buildings suitable for the convenient conduct of its functions, parking for bank, trust company and leasehold employees and customers and real property for landscaping. Revenue may be derived from renting or leasing a portion of the building or buildings and the contiguous real estate; provided that, such bank or trust company has assets of at least two hundred million dollars; **and**

(2) **Loan money on real estate and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.**

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform

any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105, RSMo, and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.

362.106. ADDITIONAL POWERS. — In addition to the powers authorized by section 362.105:

(1) A bank or trust company may exercise all powers necessary, proper [and] **or** convenient to effect any [or all] of the purposes for which the bank or trust company has been formed **and any powers incidental to the business of banking;**

(2) A bank or trust company may offer any direct and indirect benefits to a bank customer for the purpose of attracting deposits or making loans, provided said benefit is not otherwise prohibited by law, and the income or expense of such activity is nominal;

(3) Notwithstanding any other law to the contrary, every bank or trust company created under the laws of this state may, for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute, acquire and hold the voting stock of one or more corporations the activities of which are managing or owning agricultural property, subdividing and developing real property and building residential housing or commercial improvements on such property, and owning, renting, leasing, managing, operating for income and selling such property; provided that, the total of all investments, loans and guarantees made pursuant to the authority of this subdivision shall not exceed five percent of the total assets of the bank or trust company as shown on the next preceding published report of such

bank or trust company to the director of finance, unless the director of the division of finance approves a higher percentage by regulation, but in no event shall such percentage exceed that allowed national banks by the appropriate regulatory authority, and, in addition to the investments permitted by this subdivision, a bank or trust company may extend credit, not to exceed the lending limits of section 362.170, to each of the corporations in which it has invested. No provision of this section authorizes a bank or trust company to own or operate, directly or through a subsidiary company, a real estate brokerage company;

(4) Notwithstanding any other law to the contrary except for bank regulatory powers in chapter 361, RSMo, powers incidental to the business of banking shall include the authority of every Missouri bank, for a fee or other consideration, and upon complying with any applicable licensing and registration law, to conduct any activity that national banks are expressly authorized by federal law to conduct, if such Missouri bank meets the prescribed standards, provided that powers conferred by this subdivision:

(a) Shall always be subject to the same limitations applicable to a national bank for conducting the activity;

(b) Shall be subject to applicable Missouri insurance law;

(c) Shall be subject to applicable Missouri licensing and registration law for the activity;

(d) Shall be subject to the same treatment prescribed by federal law; and any enabling federal law declared invalid by a court of competent jurisdiction or by the responsible federal chartering agency shall be invalid for the purposes of this subdivision; and

(e) May be exercised by a Missouri bank after that institution has notified the director of its intention to exercise such specific power at the close of the notice period and the director, in response, has made a determination that the proposed activity is not an unsafe or unsound practice and such institution meets the prescribed standards required for the activity permitted national banks in the interpretive letter. The director may either take no action or issue an interpretive letter to the institution more specifically describing the activity permitted, and any limitations on such activity. The notice provided by the institution requesting such activity shall include copies of the specific law authorizing the power for national banks, and documentation indicating that such institution meets the prescribed standards. The notice period shall be thirty days but the director may extend it for an additional sixty days. After a determination has been made authorizing any activity pursuant to this subdivision, any Missouri bank may exercise such power as provided in subdivision (5) of this section without giving notice.

(5) When a determination is made pursuant to paragraph (e) of subdivision (4) of this section, the director shall issue a public interpretative letter or statement of no action regarding the specific power authorized pursuant to subdivision (4) of this section; such interpretative letters and statements of no action shall be made with the name of the specific institution and related identifying facts deleted. Such interpretative letters and statements of no action shall be published on the division of finance public Internet website, and filed with the office of the secretary of state for ten days prior to effectiveness. Any other Missouri bank may exercise any power approved by interpretative letter or statement of no action of the director pursuant to this subdivision; provided, the institution meets the requirements of the interpretative letter or statement of no action and the prescribed standards required for the activity permitted national banks in the interpretive letter. Such Missouri bank shall not be required to give the notice pursuant to paragraph (e) of subdivision (4) of this section. For the purposes of this subdivision and subdivision (4) of this section, "activity" shall mean the offering of any product or service or the conducting of any other activity; "federal law" shall mean any federal statute or regulation or an interpretive letter issued by the Office of the Comptroller of the

Currency; "Missouri bank" shall mean any bank or trust company created pursuant to the laws of this state.

362.109. RESTRICTIONS ON ORDERS AND ORDINANCES OF POLITICAL SUBDIVISIONS. — Notwithstanding any law to the contrary, any order or ordinance by any political subdivision shall be consistent with and not more restrictive than state law and regulations governing lending or deposit taking entities regulated by the Division of Finance or the Division of Credit Unions within the Department of Economic Development.

362.119. INVESTMENT IN TRUST COMPANIES BY BANK, LIMITATIONS — DEFINITION. — Any bank organized [under] pursuant to the laws of this state may invest not to exceed five percent of its capital, surplus and undivided profits in shares of stock in any new or existing trust company or companies or any new or existing holding company or companies controlling a trust company or companies, provided that such holding company is either a bank holding company or is a holding company with the sole purpose of owning a trust company, if the direct or indirect ownership of a majority of such stock or class of stock in such [trust company or companies] entity or entities is restricted to banks authorized to do business in the state of Missouri. For purposes of this section, the term "ownership of a majority of such stock or class of stock" does not mean or infer that such owner or owners have a controlling interest or voting interest in such trust company or companies, and the term "entity" means a trust company, bank holding company or a holding company that is not a bank holding company but that has the sole purpose of owning a trust company.

362.170. UNIMPAIRED CAPITAL, DEFINED — RESTRICTIONS ON LOANS, AND TOTAL LIABILITY TO ANY ONE PERSON. — 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the aggregate which will exceed fifteen percent of the unimpaired capital of the bank or trust company if located in a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

(a) The restrictions in this subdivision shall not apply to:

a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;

b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;

c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years

prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;

d. Loans to the extent that they are insured or covered by guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not so agreed to be purchased or discounted is within the restrictive provisions of this section;

e. Obligations to any bank or trust company in the form of notes of any person, copartnership, association, corporation or limited liability company, secured by not less than a like amount of direct obligations of the United States which will mature in not exceeding five years from the date the obligations to the bank are entered into;

f. Loans to the extent they are secured by a segregated deposit account in the lending bank if the lending bank has obtained a perfected security interest in such account;

g. Evidences of debt which are direct obligations of, or which are guaranteed by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully collateralized by direct obligations of, and which are issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, a Federal Home Loan Bank, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation;

(b) The total liabilities to the bank or trust company of any individual, partnership, corporation or limited liability company may equal but not exceed thirty-five percent of the unimpaired capital of the bank or trust company; provided, that all of the total liabilities in excess of the legal loan limit of the bank or trust company as defined in this subdivision are upon paper based upon the collateral security of warehouse receipts covering agricultural products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: first, that the actual market value of the property held in store and covered by the receipt shall at all times exceed by at least fifteen percent the amount loaned upon it; and second, that the property covered by the receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is located, and when the insurance has been used to the limit that it can be secured, then in corporations or with individuals licensed to do an insurance business by the state or country of their incorporation or residence; and all policies covering property on which the loan is made shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and provided further, that in arriving at the amount that may be loaned by any bank or trust company to any individual, partnership, corporation or limited liability company on elevator or warehouse receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of all other liabilities of the individual, partnership, corporation or limited liability company to the bank or trust company;

(c) In computing the total liabilities of any individual to a bank or trust company there shall be included all liabilities to the bank or trust company of any partnership of which the individual is a member, and any loans made for the individual's benefit or for the benefit of the partnership; of any partnership to a bank or trust company there shall be included all liabilities of and all loans made for the benefit of the partnership; of any corporation to a bank or trust company there shall be included all loans made for the benefit of the corporation and of any limited liability company

to a bank or trust company there shall be included all loans made for the benefit of the limited liability company;

(d) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values, shall not be considered as money borrowed within the meaning of this section; and the purchase or discount of negotiable or nonnegotiable [installment consumer] paper which carries the full recourse endorsements or guaranty or agreement to repurchase of the person, copartnership, association, corporation or limited liability company negotiating the same, shall not be considered as money borrowed by the endorser or guarantor or the repurchaser within the meaning of this section, provided that the files of the bank or trust company acquiring the paper contain the written certification by an officer designated for this purpose by its board of directors that the responsibility of the makers has been evaluated and the acquiring bank or trust company is relying primarily upon the makers thereof for the payment of the paper;

(e) For the purpose of this section, a loan guaranteed by an individual who does not receive the proceeds of the loan shall not be considered a loan to the guarantor;

(f) Investments in mortgage-related securities, as described in the Secondary Mortgage Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g. of paragraph (a) of subdivision (1) of subsection 2 of this section, shall be subject to the restrictions of this section, provided that a bank or trust company may invest up to two times its legal loan limit in any such securities that are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization;

(2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly purchase or be interested in the purchase of any certificate of deposit, pass book, promissory note, or other evidence of debt issued by it, for less than the principal amount of the debt, without interest, for which it was issued. Every bank or trust company or person violating the provisions of this subdivision shall forfeit to the state the face value of the note or other evidence of debt so purchased;

(3) Make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of these shares, unless the security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition unless the time is extended by the finance director. Any bank or trust company violating any of the provisions of this subdivision shall forfeit to the state the amount of the loan or purchase;

(4) Knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon security having an ascertained or market value of at least fifteen percent more than the amount of the loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the state the amount of the loan;

(5) No salaried officer of any bank or trust company shall use or borrow for himself or herself, directly or indirectly, any money or other property belonging to any bank or trust company of which the person is an officer, in excess of ten percent of the unimpaired capital of the bank or trust company, nor shall the total amount loaned to all salaried officers of any bank or trust company exceed twenty-five percent of the unimpaired capital of the bank or trust company. Where loans and a line of credit are made to salaried officers, the loans and line of credit shall first be approved by a majority of the board of directors or of the executive or discount committee, the approval to be in writing and the officer to whom the loans are made, not voting. The form of the approval shall be as follows:

We, the undersigned, constituting a majority of the of the (bank or trust company), do hereby approve a loan of \$..... or a line of credit of \$....., or both, to, it appearing that the loan or line of credit, or both, is not more than 10 percent of the unimpaired capital of (bank or trust

company); it further appearing that the loan (money actually advanced) will not make the aggregate of loans to salaried officers more than 25 percent of the unimpaired capital of the bank or trust company.

.....

Dated this day of, 20....

Provided, if the officer owns or controls a majority of the stock of any other corporation, a loan to that corporation shall be considered for the purpose of this subdivision as a loan to the officer. Every bank or trust company or officer thereof knowingly violating the provisions of this subdivision shall, for each offense, forfeit to the state the amount lent;

(6) Invest or keep invested in the stock of any private corporation, except as provided in this chapter.

3. Provided, that the provisions in this section shall not be so construed as in any way to interfere with the rules and regulations of any clearinghouse association in this state in reference to the daily balances; and provided, that this section shall not apply to balances due from any correspondent subject to draft.

4. Provided, that a trust company which does not accept demand deposits shall be permitted to make loans secured by a first mortgage or deed of trust on real estate to any individual, partnership, corporation or limited liability company, and to deal and invest in the interest-bearing obligations of any state, or any city, county, town, village, or political subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

5. Any officer, director, agent, clerk, or employee of any bank or trust company who willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any individual, partnership, corporation or limited liability company or by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation of any person, partnership, corporation or limited liability company, in excess of the amounts set out in this section, shall be deemed guilty of a class C felony.

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen percent of the capital and surplus fund of the trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities, or investing in other securities in which trust companies may invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to January 1, 1915, **and the prohibition for investments in this subsection shall not apply to investments otherwise provided by law other than subdivision (4) of subsection 3 of section 362.105.**

7. Any bank or trust company to which the provisions of subsection 2 of this section apply may continue to make loans pursuant to the provisions of subsection 2 of this section for up to five years after the appropriate decennial census indicates that the population of the city in which such bank or trust company is located has exceeded the limits provided in subsection 2 of this section.

362.270. ORGANIZATIONAL MEETING OF DIRECTORS. — Within thirty days after the date on which the annual meeting of the stockholders is held the directors elected at such meeting

shall, after subscribing the oath required in section 362.250, hold a meeting at which they shall elect a **chief executive officer which the board may designate as president or another appropriate title**, from their own number, one or more vice presidents, and such other officers as are provided for by the bylaws to be elected annually.

362.325. CHARTER AMENDED — PROCEDURE — NOTICE — DUTY OF DIRECTOR — APPEAL. — 1. Any bank or trust company may, at any time, and in any amount, increase or, with the approval of the director, reduce its capital stock (as to its authorized but unissued shares, its issued shares, and its capital stock as represented by such issued shares), including a reduction of capital stock by reverse stock split, change its name, change or extend its business or the length of its corporate life, avail itself of the privileges and provisions of this chapter or otherwise change its articles of agreement in any way not inconsistent with the provisions of this chapter, with the consent of the persons holding a majority of the stock of the bank or trust company, which consent shall be obtained at an annual meeting or at a special meeting of the shareholders called for that purpose. A bank or trust company may, but shall not be obligated to, issue a certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the value of the fractional share.

2. The meeting shall be called and notice given as provided in section 362.044.

3. If, at any time and place specified in the notice, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the bank or trust company, they shall organize by choosing one of the directors chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy.

4. If, upon a canvass of the vote at the meeting, it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record.

5. When the full amount of the proposed increase has been bona fide subscribed and paid in cash to the board of directors of the bank or trust company or the change has been duly authorized, then a statement of the proceedings, showing a compliance with the provisions of this chapter, the increase of capital actually subscribed and paid up or the change shall be made out, signed and verified by the affidavit of the president and countersigned by the cashier, or secretary, and such statement shall be acknowledged by the president and one certified copy filed in the public records of the division of finance.

6. Upon the filing of the certified copy the director shall promptly satisfy himself or herself that there has been a compliance in good faith with all the requirements of the law relating to the increase, decrease or change, and when he or she is so satisfied he or she shall issue a certificate that the bank or trust company has complied with the law made and provided for the increase or decrease of capital stock, and the amount to which the capital stock has been increased or decreased or for the change in the length of its corporate life or any other change provided for in this section. Thereupon, the capital stock of the bank or trust company shall be increased or decreased to the amount specified in the certificate or the length of the corporate life of the bank shall be changed or other authorized change made as specified in the certificate. The certificate, or certified copies thereof, shall be taken in all the courts of the state as evidence of the increase, decrease or change.

7. Provided, however, that if the change undertaken by the bank or trust company in its articles of agreement shall provide for the relocation of the bank or trust company in another community, the director shall make or cause to be made an examination to ascertain whether the convenience and needs of the new community wherein the bank desires to locate are such as to justify and warrant the opening of the bank therein and whether the probable volume of business at the new location is sufficient to ensure and maintain the solvency of the bank and the solvency of the then existing banks and trust companies at the location, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys, and, if the director, as a result of the examination, be not satisfied in the particulars mentioned or

either of them, he or she may refuse to issue the certificate applied for, in which event he or she shall forthwith give notice of his or her refusal to the bank applying for the certificate, which if it so desires may, within ten days thereafter, appeal from the refusal to the state banking board.

8. All certificates issued by the director of finance relating to amendments to the charter of any bank shall be provided to the bank or trust company and one certified copy filed in the public records of the division of finance.

9. The board of directors may designate a chief executive officer, and such officer will replace the president for purposes of this section.

362.335. OFFICERS AND EMPLOYEES — LIMITATION ON POWERS. — 1. The directors may appoint and remove any cashier, secretary or other officer or employee at pleasure.

2. The cashier, secretary or any other officer or employee shall not endorse, pledge or hypothecate any notes, bonds or other obligations received by the corporation for money loaned, until such power and authority is given the cashier, secretary or other officer or employee by the board of directors, pursuant to a resolution of the board of directors, a written record of which proceedings shall first have been made; and a certified copy of the resolution, signed by the president and cashier or secretary with the corporate seal annexed, shall be conclusive evidence of the grant of this power; and all acts of endorsing, pledging and hypothecating done by the cashier, secretary or other officer or employee of the bank or trust company without the authority from the board of directors shall be null and void. **The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.**

362.495. WHEN PAYMENT AND WITHDRAWALS MAY BE SUSPENDED. — Whenever unusual withdrawals from any bank or trust company doing a banking business in this state, organized under the laws of this state are being made, or whenever in the judgment of the president and cashier or president and secretary of such bank or trust company and/or the board of directors thereof, unusual withdrawals are about to be made, such officers and/or directors are hereby authorized to suspend payment of checks of depositors and any and all other withdrawals of assets of such bank or trust company for a period of six banking days. **The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.**

362.935. DIRECTOR OF FINANCE TO ADMINISTER — RULES AND ORDERS AUTHORIZED. — The director of finance shall administer and carry out the provisions of sections 362.910 to 362.940 and may issue such regulations and orders as may be necessary to discharge this duty and to prevent evasion of subsection 1 of section 362.920 [or subsection 1 of section 362.925].

[362.942. BANK HOLDING COMPANY WITH OPERATIONS PRINCIPALLY OUT OF STATE, ACQUIRING MISSOURI BANK, LIMITATIONS, SEVERABILITY CLAUSE, EFFECT. — 1. No bank holding company whose bank subsidiaries' operations are principally conducted in a state other than the state of Missouri, and which acquires control of a bank located in the state of Missouri, may acquire any other banks or establish branch banks for a two-year period beginning on the date such acquisition is consummated. During such two-year period, the bank holding company shall not be treated as a bank holding company whose bank subsidiaries' operations are principally conducted in the state of Missouri for purposes of acquiring other banks or establishing branch banks.

2. Notwithstanding any law to the contrary, nothing in this section shall limit the Missouri regional interstate banking law as contained in section 362.925.

3. The provisions of this section are severable. In the event that a court of competent jurisdiction shall enter a decision finding subsection 1 of this section unconstitutional or otherwise invalid and if such decision remains in force after all appeals therefrom have been

exhausted, all remaining provisions of this section shall remain in full force and effect notwithstanding such decision and such decision shall not be given retroactive effect by any court and shall not invalidate any acquisitions completed in reliance on any provisions of law prior to the date when all such appeals have been exhausted.]

367.100. DEFINITIONS. — As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean loans for [the benefit of or use by an individual or individuals:

(a) Secured by a security agreement or any other lien on tangible personal property or by the assignment of wages, salary or other compensation; or

(b) Unsecured and whether with or without comakers, guarantors, endorsers or sureties] **personal, family or household purposes in amounts of five hundred dollars or more;**

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals, partnerships, associations, trusts, corporations, and any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director [of the division of finance of Missouri,] or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action. **The provisions of section 367.100 (1)(b) shall not be effective until January 1, 2002.**

367.215. FAILURE TO FILE AUDIT REPORT, EFFECT OF — SURETY BOND POSTED, WHEN.

— The director of finance shall not issue a renewal license to any person or entity licensed under the provisions of sections 367.100 to 367.200 unless the audit report is furnished as required by section 367.210. **In lieu of the requirements of sections 367.205 to 367.215, the licensee may post a surety bond in the amount of one hundred thousand dollars. The bond shall be in a form satisfactory to the director and shall be issued by a bonding or insurance company authorized to do business in the state to secure compliance with all laws relative to consumer credit. If, in the opinion of the director, the bond shall at any time appear to be inadequate, insecure, exhausted, or otherwise doubtful, additional bond in a form and with surety satisfactory to the director shall be filed within fifteen days after the director gives notice to the licensee. A licensee may, in lieu of filing any bond required under this section, provide the director with a one hundred thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any bank, trust company, savings and loan or credit union operating in Missouri.**

367.500. DEFINITIONS. — As used in sections 367.500 to [367.530] **367.533**, unless the context otherwise requires, the following terms mean:

(1) "Borrower", [the owner of any titled personal property who pledges such property to a title lender] **a person who borrows money** pursuant to a title loan agreement;

(2) "Capital", the assets of a person less the liabilities of that person. Assets and liabilities shall be measured according to generally accepted accounting principles;

(3) "Certificate of title", a state-issued certificate of title or certificate of ownership for personal property[, which certificate is deposited with a title lender as security for a title loan pursuant to a title loan agreement];

(4) "Director", the director of the division of finance of the department of economic development or its successor agency;

(5) "Person", any resident of the state of Missouri or any business entity formed under Missouri law or duly qualified to do business in Missouri;

(6) "Pledged property", personal property, ownership of which is evidenced and delineated by a [state-issued certificate of] title;

(7) "Title lending office" or "**title loan office**", a location at which, or premises in which, a title lender regularly conducts business;

(8) "Title lender", a person [who has] qualified to [engage in the business of making] **make** title loans pursuant to sections 367.500 to [367.530 and] **367.533** who maintains at least one title lending office within [the boundaries of] the state of Missouri, which office is open for the conduct of business not less than thirty hours per week, excluding legal holidays;

(9) "Title loan agreement", a written agreement between a borrower and a title lender in a form which complies with the requirements of sections 367.500 to [367.530] **367.533**. The title lender shall [retain physical possession of the certificate of title for the entire length of the title loan agreement and for all renewals or extensions thereof, except to the extent necessary to] perfect [the title lender's] **its** lien pursuant to sections 301.600 to 301.660, RSMo, but [shall] **need** not [be required to] retain physical possession of the titled personal property at any time[. The money advanced to the borrower under a title loan agreement shall not be considered a debt of the borrower for any purpose and the borrower shall have no personal liability under a title loan agreement]; and

(10) "[Title] **Titled** personal property", any personal property **excluding property qualified to be a personal dwelling** the ownership of which is evidenced [and delineated] by a [state-issued] certificate of title.

367.503. ALLOWS DIVISION OF FINANCE TO REGULATE LENDING ON TITLED PROPERTY. — 1. The [division of finance] **director** shall [have responsibility to] administer and regulate [the provisions of] sections 367.500 to [367.530] **367.533**. The director, deputy director, other assistants and examiners, and all special agents and other employees shall keep all information [obtained from persons applying for a certificate of registration as a title lender and from all persons licensed as a title lender confidential and shall not disclose such information unless required by law or judicial order] **concerning title lenders confidential as required by sections 361.070 and 361.080, RSMo.**

2. No employee of the division of finance shall have any ownership or interest in any **title loan** business [entity engaged in the business of title loans,] or receive directly or indirectly any payment or gratuity from any such entity.

3. [In enacting rules affecting the business of title lending,] The director shall [not limit the number of title lending certificates of registration that may be issued, but shall only] issue as many [certificates of registration] **title loan licenses** as may be applied for by qualified applicants.

4. No rule or portion of a rule promulgated pursuant to the authority of sections 367.500 to [367.530] **367.533** shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

367.506. LICENSURE OF TITLE LENDERS, PENALTY. — 1. [It is unlawful for] Any person [to act] **who acts** as a title lender [unless such person has first registered and received] **without** a [certificate of registration from the division of finance to conduct such business in the manner and form provided pursuant to this act. Violators of the registration requirement are] **title loan license is** subject to both civil and criminal penalties.

2. All title loan agreements entered into by a person who acts in violation of the [registration] **licensing** requirements [provided in] of sections 367.500 to [367.530] **367.533**, and all title pledges accepted by such person, shall be null and void. Any borrower who enters into

a title loan agreement with a person who acts in violation of the provisions of sections 367.500 to [367.530] **367.533** shall not be bound by [the terms of] such agreement, and such borrower's only liability [to such person] shall be for the return of the principal [sum borrowed plus interest at the rate set by statute for interest on judgments].

3. The attorney general may initiate a civil action against any person [required to maintain a certificate of registration as a title lender] who acts as a title lender without [first obtaining such certificate] **a title loan license**. Such action shall be commenced in the circuit court for any county [in which such person engaged in title lending. For purposes of this section, such county shall mean any county] in which the person executed any title loan agreement and any county in which any of the pledged **titled personal** property is normally kept. The civil penalty for title lending without [first obtaining] a [certificate of registration] **title loan license** shall be [a fine of] not less than one thousand dollars and not more than five thousand dollars for each day that a person acts in violation of the [registration] **licensing** requirement. If the violation of the [registration] **licensing** requirement is intentional or knowing, the person shall be barred from applying for a [certificate of registration as a title lender] **title loan license** for a period of five years from the date of the last violation.

4. A first offense violation of the [registration] **licensing** requirement pursuant to this section shall be a class C misdemeanor. Second and subsequent offenses shall be class A misdemeanors. For purposes of jurisdiction and venue, the crime of unlawful title lending shall be deemed to have occurred in both the county in which an unlawful title loan agreement was executed and the county in which the pledged property is normally kept.

367.509. QUALIFICATIONS OF APPLICANTS, FEE, LICENSE ISSUED, WHEN. — 1. [To be eligible for] A [registration certificate as a title lender, an] **title loan license** applicant must [be either a natural person resident in the state of Missouri or a business entity formed under the laws of the state of Missouri or a business entity qualified to conduct business in the state of Missouri, and] have and maintain capital of at least seventy-five thousand dollars at all times.

2. The **license** application [for a certificate of registration] shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant[;], date of formation if a business entity[;], the address of each title loan office operated or sought to be operated[;], the name and [resident] **residential** address of the owner [or], partners [or], [if a corporation or association, of the] directors, trustees and principal officers[;], and such other pertinent information as the director may require. **A corporate surety bond in the principal sum of twenty thousand dollars per location shall accompany each license application. The bond shall be in a form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state in order to ensure the faithful performance of the obligations of the applicant and the applicant's agents and subagents in connection with title loan activities. An applicant or licensee may, in lieu of filing any bond required pursuant to this section, provide the director with an irrevocable letter of credit as defined in section 400.5-103, RSMo, in the amount of twenty thousand dollars per location, issued by any bank, trust company, savings and loan or credit union operating in Missouri in a form acceptable to the director.**

3. Every person [that has not previously been issued a certificate of registration pursuant to this section to engage in the business of title lending shall, at the time of] applying for [such certificate,] **a title loan license** shall pay [the sum of] one thousand dollars as an investigation fee[, which fee shall be used to cover the costs of investigating the application]. [A registered title lender may apply] **Applicants** for [a certificate of registration for] additional title lending [office locations, and] **licenses** shall[, at the time of making such application] pay [the sum of] one thousand dollars **per additional location** as an investigation fee[, which fee shall be used to cover the costs of investigating the title lender's additional title lending office location]. [In addition to the investigative fees required pursuant to this section,] The lender shall, beginning

with the first **license** renewal [of said certificate], pay annually to the director a fee of one thousand dollars for each **licensed** location [for which a certificate of registration has been issued].

4. Each [certificate] **license** shall specify the location of the [specific] title loan office [to which it applies] and shall be conspicuously displayed therein. Before any title lending office [location] may [be changed or moved by the lender] **relocate**, the director shall approve such [change of location by endorsing the certificate or] **relocation** by mailing the licensee a new [certificate] **license** to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, by a person eligible to apply for a title [lender's certificate] **loan license**, the director shall issue a [certificate to the applicant] **license** to engage in the title loan business [under and] in accordance with [the provisions of] sections 367.500 to [367.530 for a period which shall expire the last day of December next following the date of its issuance] **367.533. The licensing year shall commence on January first and end the following December thirty-first.** Each [certificate] **license** shall be uniquely numbered and shall not be transferable or assignable. Renewal [certificates] **licenses** shall be effective for a period of one year.

367.512. TITLE LOAN REQUIREMENTS — LIABILITY OF BORROWER. — 1. [Any licensed title lender may engage in the business of making loans secured by a certificate of title as provided in sections 367.500 to 367.530.

2.] Every title loan, **and each extension or renewal of such title loan**, shall be [reduced to] **in writing** [in a title loan agreement. Each title loan agreement], **signed by the borrower and** shall provide [as follows and shall include the following terms] **that:**

(1) The title lender agrees to make a loan [of money] to the borrower, and the borrower agrees to give the title lender a security interest in unencumbered titled personal property [owned by the borrower];

(2) **Whether** the borrower consents to the title lender keeping possession of the certificate of title;

(3) The borrower shall have the [exclusive] right to redeem the certificate of title by repaying the loan [of money] in full and by complying with the title loan agreement **which may be** for [an] **any** agreed period of time [but in any case] not less than thirty days;

(4) The title lender shall renew the title loan agreement [for additional thirty-day periods] upon the borrower's **written** request and the payment by the borrower of any interest [and fees] due at the time of such renewal[.]. However, upon the third renewal of [the] **any** title loan agreement, and [each] **any** subsequent renewal [thereafter], the borrower shall reduce the principal [amount of the loan] by ten percent [of the original amount of the loan] until such loan is paid in full;

(5) When the [certificate of title is redeemed] **loan is satisfied**, the title lender shall release its [security interest in the titled personal property] **lien** and return the [personal property certificate of] title to the borrower;

(6) [Upon failure of the borrower to redeem the certificate of title at the end of the original thirty-day agreement period, or at the end of any agreed-upon thirty-day renewal or renewals thereof, the borrower shall deliver the titled personal property to the title lender at the location specified in the agreement, which location shall be no more than fifteen miles from the title lender's office where the title loan agreement was executed;

(7)] If the borrower [fails to deliver the titled personal property to the title lender] **defaults**, the title lender shall be allowed to take possession of the titled personal property **after compliance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo;**

[(8)] (7) Upon obtaining possession of the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562,**

RSMo, the title lender shall be authorized to sell the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo**, and to convey to the buyer thereof good title thereto[, subject to the waiting periods provided for in section 367.521; and

(9) A borrower who does not redeem a pledged certificate of title shall have no personal liability to the title lender to repay principal, interest or expenses incurred in connection with the title loan, and that the title lender shall look solely to the titled personal property for satisfaction of the amounts owed under the title loan agreement].

[3.] **2.** Any borrower who obtains a title loan [from a title lender] under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property, shall be personally liable to the title lender for the full amount stated in the title loan agreement.

367.515. INTEREST RATE FOR TITLE LOANS, MAXIMUM — FEE CHARGED — REPOSSESSION CHARGE, WHEN. — [1. The maximum rate of interest that a title lender shall contract for and receive for making and carrying any title loan authorized by sections 367.500 to 367.530 shall not exceed one and one-half percent per month on the amount of such loans. Title lenders may charge, contract for, and receive a fee, which shall not be deemed interest, to defray the ordinary cost of operations. Such fee may include the title lenders cost for investigating the title, appraisal of the titled personal property, insuring the titled personal property while in the possession of the borrower, documenting and recording the transactions, perfecting a security interest in the titled personal property, storage of titled personal property in the possession of the title lender and for all other services and costs of the lender associated with such transactions. A pro rata portion of the foregoing fee shall be fully earned, due and owing each day that the title loan agreement remains unpaid after maturity. Such interest and fees shall be deemed to be earned, due and owing as of the date of the title loan agreement and on the date of any subsequent renewal thereof.

2.] A title lender [may assess and collect a repossession charge if the borrower fails to deliver the titled personal property pursuant to the terms of the title loan agreement. This charge shall equal the actual expense incurred by the title lender to repossess the titled personal property, including attorney's fees, but shall be no greater than five hundred dollars for any single article of titled personal property] **shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140, RSMo.**

367.518. TITLE LOAN AGREEMENTS, CONTENTS, FORM. — 1. Each title loan agreement shall disclose the following:

(1) All disclosures required [to be made under] **by the federal Truth in Lending Act and regulation Z;**

(2) That the transaction is a loan secured by the pledge of titled personal property **and, in at least 10-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property;**

(3) The [identity of the parties to the agreement, including the] name, business address, telephone number and certificate number of the title lender, and the name[, resident] **and residential** address [and identification] of the borrower;

(4) The monthly interest rate to be charged;

(5) [The allowable fees and expenses to be charged to the borrower upon redemption of the certificate of title;

(6) The date on which the borrower's exclusive right to redeem the pledged certificate of title pursuant to section 367.521 expires] **A statement which shall be in at least 10-point bold type, separately acknowledged by the signature of the borrower and reading as follows: You may cancel this loan without any costs by returning the full principal amount to the lender by the close of the lender's next full business day;**

[(7)] (6) The location where the titled personal property [is to] **may** be delivered if the [certificate of title] **loan** is not [redeemed] **paid** and the hours such location is open for receiving such deliveries; and

[(8)] (7) Any additional disclosures deemed necessary by the [division of finance] **director** or required pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The division of finance is directed to [promulgate] **draft** a form [of disclosure] to be used in title loan [agreements] **transactions**. Use of [the] **this** form [promulgated by the division of finance] is not mandatory[.]; however, use of such form, properly completed, shall satisfy the disclosure provisions of this section.

367.521. REDEMPTION OF CERTIFICATE OF TITLE — EXPIRATION OR DEFAULT, LENDER MAY PROCEED AGAINST COLLATERAL. — 1. [Except as otherwise provided in sections 367.500 to 367.530,] The borrower shall be entitled to redeem the [certificate of title upon] **security** by timely satisfaction of [all outstanding obligations agreed to in] the **terms of the** title loan agreement. Upon expiration or default of a title loan agreement [and of the renewal or renewals of the agreement, if any, the title lender shall retain possession of the certificate of title for at least twenty days. If the borrower fails to redeem the certificate of title before the lapse of the twenty-day holding period, the pledgor shall thereby forfeit all right, title and interest in and to the titled personal property to the title lender, who shall thereby acquire an absolute right of title to the titled personal property, and the title lender shall have the sole right and authority to sell or dispose of the pledged property pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The title lender has, upon default by the pledgor of any obligation pursuant to the title loan agreement, the right to take possession of the titled personal property.

3. In taking possession, the title pledge lender or the lender's agent may proceed without judicial process if this can be done without breach of the peace; or, if necessary, may proceed by action to obtain judicial process. Any repossession conducted without the knowledge and cooperation of the owner shall comply with the requirements of subsection 12 of section 304.155, RSMo.

4. If the title lender takes possession of the titled personal property, either personally or through its agent, at any time during the twenty-day holding period provided herein, the title lender shall retain possession, either personally or through its agent, of the titled personal property until the expiration of the twenty-day holding period.

5. If during the twenty-day holding period, the borrower redeems the certificate of title by paying all outstanding principal, interest, and other fees stated in the title pledge agreement, and, if applicable, repossession fees and storage fees, the borrower shall be given possession of the certificate of title and the titled personal property, without further charge.

6. If the borrower fails to redeem the titled personal property during the twenty-day holding period, the borrower shall thereby forfeit all right, title, and interest in and to the titled personal property and certificate of title, to the title lender, who shall thereby acquire an absolute right of title and ownership to the titled personal property. The title lender shall then have the sole right and authority to sell or dispose of the unredeemed titled personal property.

7. If the borrower loses the title pledge agreement or other evidence of the transaction, the borrower shall not thereby forfeit the right to redeem the pledged property, but may promptly, before the lapse of the redemption date, make affidavit for such loss, describing the pledged property, which affidavit shall, in all respects, replace and be substituted for the lost evidence of the transaction], **the title lender may proceed against the collateral pursuant to chapter 400, RSMo, and with sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo.**

367.524. RECORDS OF LOAN AGREEMENTS. — 1. Every title lender shall keep a consecutively numbered record of each [and every] title loan agreement executed, which number

shall be placed on the corresponding title loan agreement itself. Such record shall include the following:

(1) A clear and accurate description of the titled personal property, including its vehicle identification or serial number, license plate number, [if applicable,] year, make, model, type, and color;

(2) The date of the title loan agreement;

(3) The amount of the loan [made pursuant to the title loan agreement];

(4) The date of maturity of the loan; and

(5) The name, [race, sex, height,] date of birth, Social Security number, [resident] **residential** address, and the type [and unique identification number] of [the] photo identification of the borrower.

2. The title lender shall [make a good and useable] photocopy [of] the photo identification of the borrower or shall take an instant photograph of the borrower, [which] **and shall attach such** photocopy or photograph [shall be attached] to the lender's copy of the title loan agreement **and all renewals**.

3. The borrower shall sign the title loan agreement and shall be provided with a copy of such agreement. The title lender, or the lender's employee or agent shall also sign the title loan agreement. **The title lender shall provide each customer with and retain a photocopy of the pledged title at the time the note is signed.**

4. The title lender shall keep the numbered records and copies of its title loan agreements, **including a copy of the notice required pursuant to subsection 1 of section 367.525**, for a period of no less than two years from the date of the closing of the last transaction reflected therein. [The date of the last transaction, as used in this subsection, means in the case where a borrower redeemed the pledged certificate of title, the date of such redemption, and in the case where a borrower does not redeem the pledged certificate of title, the date on which the title lender sells the titled personal property.] A title lender who ceases engaging in the business of making title loans shall keep these records for [a period of no less than] **at least** two years from the date the lender ceased engaging in the business. **A title lender must notify the director to request an examination at least ten days before ceasing business.**

5. The records required [to be maintained] by this section shall be made available for inspection by any employee of the division of finance upon request during ordinary business hours without warrant or court order.

367.525. NOTICE TO BORROWER PRIOR TO ACCEPTANCE OF TITLE LOAN APPLICATION.

— 1. Before accepting a title loan application, the lender shall provide the borrower the following notice in at least 10-point bold type and receipt thereof shall be acknowledged by signature of the borrower:

(Name of Lender)

NOTICE TO BORROWER

(1.) Your automobile title will be pledged as security for the loan. If the loan is not repaid in full, including all finance charges, you may lose your automobile.

(2.) This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

I have read the above "NOTICE TO BORROWER" and I understand that if I do not repay this loan that I may lose my automobile.

Borrower

Date

2. If the loan is secured by titled personal property other than an automobile, the lender shall either provide a form with the proper word describing the security or else shall strike the word "automobile" from the three places it appears, write or print in the

type of titled personal property serving as security and have the customer initial all three places.

3. The title lender shall post in a conspicuous location in each licensed office, in at least 14-point bold type the maximum rates that such title lender is currently charging on any loans made and the statement:

NOTICE:

Borrowing from this lender places your automobile at risk. If this loan is not repaid in full, including all finance charges, you may lose your automobile.

This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

3. When making or negotiating loans, the title lender shall take into consideration in determining the size and duration of a loan contract the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract.

367.527. LIMITATIONS OF TITLE LENDERS. — 1. A title lender shall not:

(1) Accept a pledge from a person under eighteen years of age[,] or from anyone who appears to be intoxicated;

(2) [Make any agreement giving the title lender any recourse against the borrower other than the title lender's right to take possession of the titled personal property and certificate of title upon the borrower's default or failure to redeem, sell or otherwise dispose of the titled personal property in accordance with provisions of this act, except as otherwise expressly permitted in sections 367.500 to 367.530;

(3) Enter into a title agreement in which the amount of money loaned in consideration of the pledge of any single certificate of title] **make a loan which** exceeds five thousand dollars;

[(4)] (3) Accept any waiver[, in writing or otherwise,] of any right or protection [accorded] of a borrower [pursuant to sections 367.500 to 367.530];

[(5)] (4) Fail to exercise reasonable care to protect from loss or damage certificates of title or titled personal property in the physical possession of the title lender;

[(6)] (5) Purchase titled personal property in the operation of its business;

[(7)] (6) Enter into a title loan agreement unless the borrower presents clear title [to titled personal property] at the time that the loan is made [and such title is retained in the physical possession of the title pledge lender; or];

[(8)] (7) Knowingly violate any provision of sections 367.500 to [367.530] **367.533** or any rule promulgated [pursuant to authority granted by this act] **thereunder**;

(8) **Violate any provision of sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo; or**

(9) **Store repossessed titled personal property at a location more than fifteen miles from the office where the title loan agreement was executed.**

2. If a title lender enters into a transaction contrary to this section, [any lien obtained by the title lender] **the loan and the lien** shall be void.

367.530. SAFEKEEPING OF CERTIFICATES OF TITLE — LIABILITY INSURANCE MAINTAINED, WHEN — LIABILITY OF TITLE LENDER. — 1. Every [person engaged in the business of title lending] **title lender** shall [provide] **maintain** a [safe] **fireproof** place for the [keeping of the] pledged certificates of title and a **safe place** for [the keeping of] pledged property delivered to **or repossessed by** the title lender [pursuant to the terms of any title loan agreement].

2. Every [person engaged in the business of title lending] **title lender** shall maintain premises liability insurance in an amount of not less than one million dollars per occurrence for the benefit of customers and employees [who visit or work at the title lending office], which insurance shall provide coverage for, among other risks, injuries caused by the criminal acts of third parties.

3. A [person engaged in the business of title lending] **title lender** shall **not** be [immune from liability] **liable** for any loss or injury occasioned or caused by the use of pledged property unless the pledged property is actually in the **title lender's** possession [of the title pledge lender].

4. A [person engaged in the business of title lending] **title lender** shall be strictly liable to the borrower for any loss to pledged property in the **title lender's** possession [of the title lender, but only if the borrower makes a redemption of the pledged property prior to the expiration of the twenty-day holding period provided in section 367.521].

367.531. APPLICABILITY TO CERTAIN TRANSACTIONS. — The provisions of sections 408.552 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo, are applicable to all transactions pursuant to sections 367.500 to 367.533.

367.532. VIOLATIONS, PENALTIES. — 1. Any title lender which fails, refuses or neglects to comply with sections 367.500 to 367.533, sections 408.551 to 408.557, RSMo, sections 408.560 to 408.562, RSMo, or any laws relating to title loans or commits any criminal act may have its license suspended or revoked by order of the director after a hearing before said director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the title lender at least ten days prior to the hearing.

2. Whenever it shall appear to the director that any title lender is failing, refusing or neglecting to make a good faith effort to comply with the provisions of sections 367.500 to 367.533, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

408.052. POINTS PROHIBITED, EXCEPTION — PENALTIES FOR ILLEGAL POINTS — VIOLATION A MISDEMEANOR — DEFAULT CHARGE AUTHORIZED, WHEN, EXCEPTIONS. —

1. No lender shall charge, require or receive, on any residential real estate loan, any points or other fees of any nature whatsoever, excepting insurance, including insurance for involuntary unemployment coverage, and a one-percent origination fee, whether from the buyer or the seller or any other person, except that the lender may charge bona fide expenses paid by the lender to any other person or entity except to an officer, employee, or director of the lender or to any business in which any officer, employee or director of the lender owns any substantial interest for services actually performed in connection with a loan. In addition to the foregoing, if the loan is for the construction, repair, or improvement of residential real estate, the lender may charge a fee not to exceed one percent of the loan amount for inspection and disbursement of the proceeds of the loan to third parties. Notwithstanding the foregoing, the parties may contract for a default charge for any installment not paid in full within fifteen days of its scheduled due date. The restrictions of this section shall not apply:

(1) To any loan which is insured or covered by guarantee made by any department, board, bureau, commission, agency or establishment of the United States, pursuant to the authority of any act of Congress heretofore or hereafter adopted; and

(2) To any loan for which an offer or commitment or agreement to purchase has been received from and which is made with the intention of reselling such loan to the Federal Housing Administration, Farmers Home Administration, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or to any successor to the above-mentioned organizations, to any other state or federal governmental or quasi-governmental organization; and

(3) Provided that the 1994 reenactment of this section shall not be construed to be action taken in accordance with Public Law 96-221, Section 501(b)(4). Any points or fees received in excess of those permitted under this section shall be returned to the person from whom received upon demand.

2. Notwithstanding the language in subsection 1 of this section, a lender may pay to an officer, employee or director of the lender, or to any business in which such person has an interest, bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan, provided:

(1) Such services are individually listed by amount and payee on the loan-closing documents; and

(2) Such lender may use the preemption of Public Law 96-221, Section 501 with respect to the residential real estate loan in question. When fees charged need not be disclosed in the annual percentage rate required by Title 15, U.S.C. Sections 1601, et seq., and regulations thereunder because such fees are [deminimus] **de minimis** amounts or for other reasons, such fees need not be included in the annual percentage rate for state examination purposes.

3. **The lender may charge and collect bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan as provided in subsection 2 of this section; however, the lender's board of directors shall determine whether such bona fide fees shall be paid to the lender or businesses related to the lender in subsection 2 of this section, but may allow current contractual relationships to continue for up to two years.**

4. If any points or fees are charged, required or received, which are in excess of those permitted by this section, or which are not returned upon demand when required by this section, then the person paying the same points or fees or his or her legal representative may recover twice the amount paid together with costs of the suit and reasonable attorney's fees, provided that the action is brought within five years of such payment.

[4.] 5. Any lender who knowingly violates the provisions of this section is guilty of a class B misdemeanor.

408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION. — 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200, RSMo, and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed fifty dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) **If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;**

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

[(5)] (6) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than fifteen dollars;

[(6)] (7) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

[(7)] (8) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan. This section applies to nonprecomputed loans only and does not affect any other sections.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.500. UNSECURED LOANS UNDER FIVE HUNDRED DOLLARS, LICENSURE OF LENDERS, INTEREST RATES AND FEES ALLOWED — PENALTIES FOR VIOLATIONS — COST OF COLLECTION EXPENSES — NOTICE REQUIRED, FORM. — 1. Lenders [exclusively], **other than banks, trust companies, credit unions, savings banks and savings and loan companies**, in the business of making unsecured loans [under] of five hundred dollars [and who are not otherwise registered under this chapter shall be registered with] **or less shall obtain a license from the director of the division of finance [upon the payment of].** An annual [registration] **license fee of three hundred dollars per location shall be required.** The license year shall commence on January first each year and the license fee may be prorated for expired months. [Such lenders shall not charge, contract for or receive on such loans interest or any fee of any type or kind whatsoever which exceed the approved rate as provided in this subsection. Lenders shall file a rate schedule with the director who, upon review, shall approve rates comparable with those lawfully charged in the marketplace for similar loans. In determining marketplace interest rates, the director shall consider the appropriateness of rate requests made by lenders and rates allowed on similar loans in the states contiguous to Missouri. If the director takes no action upon a filed rate schedule within thirty days of receipt, then it shall be deemed approved as filed. The director, on January first and July first of each year, shall consider the filing of new interest rate

schedules to reflect changes in the marketplace. The director may promulgate rules regarding the computation and payment of interest, contract statements, payment receipts and advertising for loans made under the provisions of this section.] The provisions of this section shall not apply to pawnbroker loans [and small], **consumer credit** loans as authorized under chapter 367, RSMo, **nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.**

2. **Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140.** Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in [excess of the rate established under] **violation of** this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in [excess of the rate established under] **violation of** this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes [pursuant to] of this section.

4. **Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least 14-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:**

NOTICE:

This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least 10-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) **This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.**

(2) **You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.**

6. **The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the fifth renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by ten percent of the original amount of the loan until such loan is paid in full.**

7. **When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.**

8. **A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.**

9. **Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.**

10. **Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue**

an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

427.220. COMMISSIONS AND CONSIDERATION PAID TO DEPOSITORY INSTITUTIONS NOT TO BE MORE LIMITED THAN THOSE PAID TO INSURANCE AGENCIES — DEFINITIONS. — 1. Commissions paid to properly licensed employees or individual agents of a depository institution or a related entity shall not be more limited than commissions paid to employees or agents or any other properly licensed insurance agency, but shall be disclosed at least quarterly to the board of directors of the depository institution if earned under a contract with the depository institution to facilitate the sale of insurance; provided this subsection shall not apply to commissions based on the sale of credit insurance regulated by chapter 385, RSMo.

2. Consideration given under a contract between a depository institution and a related entity to facilitate the sale of insurance shall not be more limited than under such a contract between a depository institution and a nonrelated entity, except that the consideration from the related entity, other than an operating subsidiary, must be at least equal to the fair market value of the consideration from the depository institution. The depository institution may establish the value of rights under a contract by obtaining written bid commitments based on a nonrelated entity's bid for a contract; provided:

(1) The parties to the contract may, demonstrate fair market value by illustrating the costs and benefits of the contract in a number of ways, including but not limited to the following: providing a full accounting of the calculations and compensation, including gross commissions to be received by each party to the contract, and any fees or other payments made to any bank officers, directors, employees and agents as a result of the contract, as well as specifically disclosing the services, such as standard light, heat, telephone, space plus office personnel and filing space, and providing an accounting of new business to be generated, with a comparison of depository institution and agency business, for the parties to the contract;

(2) Information provided pursuant to this subsection, shall be considered proprietary and confidential pursuant to sections 361.070 and 361.080, RSMo.

3. If the division determines enforcement action is necessary to protect the safety and soundness of an institution that it regulates, it may take enforcement action as otherwise permitted by law and may limit insurance commissions or other payments to an amount other than permitted in this section; provided the division has made a finding that enforcement action was required to protect the safety and soundness of such institution. Nothing in this section shall limit the application of sections 382.190 and 382.195, RSMo, to transactions between insurers and their affiliates.

4. For the purposes of this section, the following terms shall mean:

(1) "Commissions", in addition to insurance commissions, this term shall include any other compensation received for the sale of insurance products whether such compensation is classified within the depository institution as salary, bonus or other remuneration;

(2) "Contract", any contract or arrangement;

(3) "Division", the division of finance or the division of credit union supervision;

(4) "Fair market value", the value of an asset or service, which may include determinable costs and a profit reasonable for the market and shall not be limited to a specific rate of profit;

(5) "Operating subsidiary", any subsidiary of a depository institution that is not a financial subsidiary as otherwise defined by law;

(6) "Related entity", any holding company, affiliate or subsidiary of the depository institution or any entity controlled by common ownership with the depository institution or by an individual or individuals who are executive officers or directors of the depository institution.

513.430. PROPERTY EXEMPT FROM ATTACHMENT — BENEFITS FROM CERTAIN EMPLOYEE PLANS, EXCEPTION — BANKRUPTCY PROCEEDING, FRAUDULENT TRANSFERS, EXCEPTION — CONSTRUCTION OF SECTION. — 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed one thousand dollars in value in the aggregate;

(2) Jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value four hundred dollars in the aggregate;

(4) Any implements, professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed two thousand dollars in value in the aggregate;

(5) Any motor vehicle, not to exceed one thousand dollars in value;

(6) Any mobile home used as the principal residence, not to exceed one thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value [five] **one hundred fifty** thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within [six months] **one year** prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed five hundred dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any similar plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or

length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified under Section 401(k), 403(a)(3), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended.

If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 542.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

Approved July 12, 2001

HB 742 [SCS HB 742]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to sell certain property in Platte County to the Kansas City International Airport.

AN ACT to authorize the conveyance of property owned by the state in Platte County to Kansas City International Airport.

SECTION

1. Conveyance of KCI Multi-Purpose Export Facility by the state to the Kansas City International Airport, terms and conditions — attorney general to approve the form of the instrument of conveyance.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF KCI MULTI-PURPOSE EXPORT FACILITY BY THE STATE TO THE KANSAS CITY INTERNATIONAL AIRPORT, TERMS AND CONDITIONS — ATTORNEY GENERAL TO APPROVE THE FORM OF THE INSTRUMENT OF CONVEYANCE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in fee simple absolute in property owned by the state in Platte County known as the KCI Multi-Purpose Export Facility to the Kansas City International Airport. The KCI Multi-Purpose Export Facility, is more particularly described as follows:

All that part of Tracts 143 and 144, KANSAS CITY INTERNATIONAL AIRPORT, a subdivision in Kansas City, Platte County, Missouri, described as follows:

Beginning at a point on the Southerly line of said Tract 144 that is South 76 degrees 55 minutes 19 seconds East, a distance of 643.24 feet from the Southwest corner thereof; thence North 17 degrees 09 minutes 31 seconds West, a distance of 69.68 feet; thence North 72 degrees 50 minute 29 seconds East, a distance of 200.00 feet; thence South 17 degrees 09 minutes 31 seconds East a distance of 300 feet; thence South 72 degrees 50 minutes 29 seconds West, a distance of 200 feet; thence North 17 degrees 09 minutes 31 seconds West, a distance of 230.32 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place and terms of the sale.

3. The attorney general shall approve as to form the instrument of conveyance.

Approved June 26, 2001

HB 745 [HB 745]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows unclaimed property to be collected by a county or city public administrator.

AN ACT to repeal section 58.490, RSMo 2000, relating to unclaimed property, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
- 58.490. Unclaimed money or property found on deceased, turned over to public administrator by coroner.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 58.490, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 58.490, to read as follows:

58.490. UNCLAIMED MONEY OR PROPERTY FOUND ON DECEASED, TURNED OVER TO PUBLIC ADMINISTRATOR BY CORONER. — The coroner, within thirty days after an inquest upon a dead body, shall deliver to the county or city [treasurer] **public administrator** any money or other property that may be found upon the body, unless claimed in the meantime by the legal representatives of the deceased. If he [fail] **or she fails** to do so, the [treasurer] **public administrator** may proceed against him **or her** for its recovery by a civil action in the name of the state for the use of the county or city.

Approved June 27, 2001

HB 762 [CCS SS SCS HS HCS HB 762]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires HMOs to provide direct access to ob/gyn services, bone density testing and contraceptive coverage, and notify enrollees of cancer screenings available through their insurance.

AN ACT to repeal sections 197.285, 208.151 and 376.1209, RSMo 2000, relating to women's health services, and to enact in lieu thereof five new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 197.285. Protections for hospital and ambulatory surgical center employees for certain disclosures — written policy required — procedures for disclosure — anonymous reports.
- 208.151. Medical assistance, persons eligible — rulemaking authority.
- 376.1199. Coverage for certain obstetrical/gynecological services — exclusion of contraceptive coverage permitted, when — rulemaking authority.
- 376.1209. Mastectomy — mandatory insurance coverage for prosthetic devices and reconstructive surgery — no time limit to be imposed.
 - 1. Contracts by the department of insurance in excess of \$100,000 to be reviewed and approved by the attorney general.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 197.285, 208.151 and 376.1209, RSMo 2000, are repealed and five new sections enacted in lieu thereof, to be known as sections 197.285, 208.151, 376.1199, 376.1209 and 1, to read as follows:

197.285. PROTECTIONS FOR HOSPITAL AND AMBULATORY SURGICAL CENTER EMPLOYEES FOR CERTAIN DISCLOSURES — WRITTEN POLICY REQUIRED — PROCEDURES FOR DISCLOSURE — ANONYMOUS REPORTS. — 1. Hospitals and ambulatory surgical centers shall establish and implement a written policy adopted by each hospital and ambulatory surgical center relating to the protections for employees who disclose information pursuant to subsection 2 of this section. This policy shall include a time frame for completion of investigations related to complaints, not to exceed thirty days, and a method for notifying the complainant of the disposition of the investigation. This policy shall be submitted to the department of health to verify implementation. At a minimum, such policy shall include the following provisions:

- (1) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall prohibit employees from disclosing information pursuant to subsection 2 of this section;

(2) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall use or threaten to use his or her supervisory authority to knowingly discriminate against, dismiss, penalize or in any way retaliate against or harass an employee because the employee in good faith reported or disclosed any information pursuant to subsection 2 of this section, or in any way attempt to dissuade, prevent or interfere with an employee who wishes to report or disclose such information;

(3) Establish a program to identify a compliance officer who is a designated person responsible for administering the reporting and investigation process and an alternate person should the primary designee be implicated in the report.

2. This section shall apply to information disclosed or reported in good faith by an employee concerning:

(1) Alleged facility mismanagement or fraudulent activity;

(2) Alleged violations of applicable federal or state laws or administrative rules concerning patient care, patient safety or facility safety; or

(3) The ability of employees to successfully perform their assigned duties.

All information disclosed, collected and maintained pursuant to this subsection and pursuant to the written policy requirements of this section shall be accessible to the department of health at all times and shall be reviewed by the department of health at least annually. Complainants shall be notified of the department of health's access to such information and of the complainant's right to [appeal to the department of health] **notify the department of health of any information concerning alleged violations of applicable federal or state laws or administrative rules concerning patient care, patient safety or facility safety.**

3. Prior to any disclosure to individuals or agencies other than the department of health, employees wishing to make a disclosure pursuant to the provisions of this section shall first report to the individual or individuals designated by the hospital or ambulatory surgical center pursuant to subsection 1 of this section.

4. If the compliance officer, compliance committee or management official discovers credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to believe that the misconduct may violate criminal, civil or administrative law, then the hospital or ambulatory surgical center shall report the existence of misconduct to the appropriate governmental authority within a reasonable period, but not more than seven days after determining that there is credible evidence of a violation.

5. Reports made to the department of health shall be subject to the provisions of section 197.477, provided that the restrictions of section 197.477 shall not be construed to limit the employee's ability to subpoena from the original source the information reported to the department pursuant to this section.

6. Each written policy shall allow employees making a report who wish to remain anonymous to do so, and shall include safeguards to protect the confidentiality of the employee making the report, the confidentiality of patients and the integrity of data, information and medical records.

7. Each hospital and ambulatory surgical center shall, within forty-eight hours of the receipt of a report, notify the employee that his or her report has been received and is being reviewed.

8. The enactment of this section shall become effective January 1, 2001.

208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE — RULEMAKING AUTHORITY. —

1. For the purpose of paying medical assistance on behalf of needy persons and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. section 301 et seq.) as amended, the following needy persons shall be eligible to receive medical assistance to the extent and in the manner hereinafter provided:

(1) All recipients of state supplemental payments for the aged, blind and disabled;

(2) All recipients of aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040;

(3) All recipients of blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the division of family services, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All recipients of family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were recipients of old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The division of family services shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the division of family services shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide Medicaid coverage under this subdivision, the department of social services may revise the state Medicaid plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The following children with family income which does not exceed two hundred percent of the federal poverty guideline for the applicable family size:

(a) Infants who have not attained one year of age with family income greater than one hundred eighty-five percent of the federal poverty guideline for the applicable family size;

(b) Children who have attained one year of age but have not attained six years of age with family income greater than one hundred thirty-three percent of the federal poverty guideline for the applicable family size; and

(c) Children who have attained six years of age but have not attained nineteen years of age with family income greater than one hundred percent of the federal poverty guideline for the applicable family size. Coverage under this subdivision shall be subject to the receipt of notification by the director of the department of social services and the revisor of statutes of approval from the secretary of the U.S. Department of Health and Human Services of applications for waivers of federal requirements necessary to promulgate regulations to implement this subdivision. The director of the department of social services shall apply for such waivers. The regulations may provide for a basic primary and preventive health care services package, not to include all medical services covered by section 208.152, and may also establish co-payment, coinsurance, deductible, or premium requirements for medical assistance under this subdivision. Eligibility for medical assistance under this subdivision shall be available only to those infants and children who do not have or have not been eligible for employer-subsidized health care insurance coverage for the six months prior to application for medical assistance. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The division of family services may establish a resource eligibility standard in assessing eligibility for persons under this subdivision. The division of medical services shall define the amount and scope of benefits which are available to individuals under this subdivision in accordance with the requirement of federal law and regulations. Coverage under this subdivision shall be subject to appropriation to provide services approved under the provisions of this subdivision;

(16) The division of family services shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The division of medical services shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder except that the scope of benefits shall include case management services;

(17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. section 1396r-1, as amended;

(18) A child born to a woman eligible for and receiving medical assistance under this section on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the division of family services shall assign a medical assistance eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(19) Pregnant women and children eligible for medical assistance pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical assistance benefits be required to apply for aid to families with dependent children. The division of family services shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for medical assistance. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for medical assistance benefits under subdivision (12), (13) or (14) shall be informed of the aid to families

with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the division of family services for assessing eligibility under this chapter shall be as simple as practicable;

(20) Subject to appropriations necessary to recruit and train such staff, the division of family services shall provide one or more full-time, permanent case workers to process applications for medical assistance at the site of a health care provider, if the health care provider requests the placement of such case workers and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such case workers. The division may provide a health care provider with a part-time or temporary case worker at the site of a health care provider if the health care provider requests the placement of such a case worker and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such a case worker. The division may seek to employ such case workers who are otherwise qualified for such positions and who are current or former welfare recipients. The division may consider training such current or former welfare recipients as case workers for this program;

(21) Pregnant women who are eligible for, have applied for and have received medical assistance under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum medical assistance provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(22) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a city health department operated under a city charter or a combined city-county health department or other department of health designees. To the greatest extent possible the department of social services and the department of health shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of mental retardation program and the prenatal care program administered by the department of health. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the Medicaid program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

(23) By January 1, 1988, the department of social services and the department of health shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207, RSMo;

(24) All recipients who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(25) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards in effect December 31, 1973, or those supplemental security income recipients who would be determined eligible for general relief benefits under the eligibility standards in effect December 31, 1973, except income; or less restrictive standards as established by rule of the division of family services. If federal law or regulation authorizes the division of family services to, by rule, exclude the income or resources of a parent or parents of a person under the age of eighteen and

such exclusion of income or resources can be limited to such parent or parents, then notwithstanding the provisions of section 208.010:

(a) The division may by rule exclude such income or resources in determining such person's eligibility for permanent and total disability benefits; and

(b) Eligibility standards for permanent and total disability benefits shall not be limited by age;

(26) Within thirty days of the effective date of an initial appropriation authorizing medical assistance on behalf of "medically needy" individuals for whom federal reimbursement is available under 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum, an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii);

(27) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for medical assistance for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six months. The division of medical services may provide by rule the scope of medical assistance coverage to be granted to such families.

4. For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act, as amended, any individual who, for the month of August, 1972, was eligible for or was receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV of such act and who, for such month, was entitled to monthly insurance benefits under Title II of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter prior to October, 1974, if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under Title II of such act resulting from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C. 301 et seq.), as amended, not been applicable to such individual.

5. When any individual has been determined to be eligible for medical assistance, such medical assistance will be made available to him for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

376.1199. COVERAGE FOR CERTAIN OBSTETRICAL/GYNECOLOGICAL SERVICES — EXCLUSION OF CONTRACEPTIVE COVERAGE PERMITTED, WHEN — RULEMAKING

AUTHORITY. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans providing obstetrical/gynecological benefits and pharmaceutical coverage, which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall:

(1) Notwithstanding the provisions of subsection 4 of section 354.618, RSMo, provide enrollees with direct access to the services of a participating obstetrician, participating gynecologist or participating obstetrician/gynecologist of her choice within the provider network for covered services. The services covered by this subdivision shall be limited to those services defined by the published recommendations of the accreditation council for graduate medical education for training an obstetrician, gynecologist or obstetrician/gynecologist, including but not limited to diagnosis, treatment and referral for such services. A health carrier shall not impose additional co-payments, coinsurance or deductibles upon any enrollee who seeks or receives health care services pursuant to this subdivision, unless similar additional co-payments, coinsurance or deductibles are imposed for other types of health care services received within the provider network. Nothing in this subsection shall be construed to require a health carrier to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources for or refer a patient for an abortion, as defined in section 188.015, RSMo, other than a spontaneous abortion or to prevent the death of the female upon whom the abortion is performed, or to supersede or conflict with section 376.805; and

(2) Notify enrollees annually of cancer screenings covered by the enrollees' health benefit plan and the current American Cancer Society guidelines for all cancer screenings or notify enrollees at intervals consistent with current American Cancer Society guidelines of cancer screenings which are covered by the enrollees' health benefit plans. The notice shall be delivered by mail unless the enrollee and health carrier have agreed on another method of notification; and

(3) Include coverage for services related to diagnosis, treatment and appropriate management of osteoporosis when such services are provided by a person licensed to practice medicine and surgery in this state, for individuals with a condition or medical history for which bone mass measurement is medically indicated for such individual. In determining whether testing or treatment is medically appropriate, due consideration shall be given to peer reviewed medical literature. A policy, provision, contract, plan or agreement may apply to such services the same deductibles, coinsurance and other limitations as apply to other covered services; and

(4) If the health benefit plan also provides coverage for pharmaceutical benefits, provide coverage for contraceptives either at no charge or at the same level of deductible, coinsurance or co-payment as any other covered drug. No such deductible, coinsurance or co-payment shall be greater than any drug on the health benefit plan's formulary. As used in this section, "contraceptive" shall include all prescription drugs and devices approved by the federal Food and Drug Administration for use as a contraceptive, but shall exclude all drugs and devices that are intended to induce an abortion, as defined in section 188.015, RSMo, which shall be subject to section 376.805. Nothing in this subdivision shall be construed to exclude coverage for prescription contraceptive drugs or devices ordered by a health care provider with prescriptive authority for reasons other than contraceptive or abortion purposes.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

4. Notwithstanding the provisions of subdivision (4) of subsection 1 of this section to the contrary:

(1) Any health carrier may issue to any person or entity purchasing a health benefit plan, a health benefit plan that excludes coverage for contraceptives if the use or provision of such contraceptives is contrary to the moral, ethical or religious beliefs or tenets of such person or entity;

(2) Upon request of an enrollee who is a member of a group health benefit plan and who states that the use or provision of contraceptives is contrary to his or her moral, ethical or religious beliefs, any health carrier shall issue to or on behalf of such enrollee a policy form that excludes coverage for contraceptives. Any administrative costs to a group health benefit plan associated with such exclusion of coverage not offset by the decreased costs of providing coverage shall be borne by the group policyholder or group plan holder;

(3) Any health carrier which is owned, operated or controlled in substantial part by an entity that is operated pursuant to moral, ethical or religious tenets that are contrary to the use or provision of contraceptives shall be exempt from the provisions of subdivision (4) of subsection 1 of this section.

For purposes of this subsection, if new premiums are charged for a contract, plan or policy, it shall be determined to be a new contract, plan or policy.

5. Except for a health carrier that is exempted from providing coverage for contraceptives pursuant to this section, a health carrier shall allow enrollees in a health benefit plan that excludes coverage for contraceptives pursuant to subsection 4 of this section to purchase a health benefit plan that includes coverage for contraceptives.

6. Any health benefit plan issued pursuant to subsection 1 of this section shall provide clear and conspicuous written notice on the enrollment form or any accompanying materials to the enrollment form and the group health benefit plan contract:

(1) Whether coverage for contraceptives is or is not included;

(2) That an enrollee who is a member of a group health benefit plan with coverage for contraceptives has the right to exclude coverage for contraceptives if such coverage is contrary to his or her moral, ethical or religious beliefs; and

(3) That an enrollee who is a member of a group health benefit plan without coverage for contraceptives has the right to purchase coverage for contraceptives.

7. Health carriers shall not disclose to the person or entity who purchased the health benefit plan the names of enrollees who exclude coverage for contraceptives in the health benefit plan or who purchase a health benefit plan that includes coverage for contraceptives. Health carriers and the person or entity who purchased the health benefit plan shall not discriminate against an enrollee because the enrollee excluded coverage for contraceptives in the health benefit plan or purchased a health benefit plan that includes coverage for contraceptives.

8. The departments of health and insurance may promulgate rules necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

376.1209. MASTECTOMY — MANDATORY INSURANCE COVERAGE FOR PROSTHETIC DEVICES AND RECONSTRUCTIVE SURGERY — NO TIME LIMIT TO BE IMPOSED. — 1. Each entity offering individual and group health insurance policies providing coverage on an expense-incurred basis, individual and group service or indemnity type contracts issued by a nonprofit corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group arrangements to the extent not preempted by federal law, and all managed health care delivery entities of any type or description, that provide coverage for the surgical procedure known as a mastectomy, and which are delivered, issued for delivery,

continued or renewed in this state on or after January 1, 1998, shall provide coverage for prosthetic devices or reconstructive surgery necessary to restore symmetry as recommended by the oncologist or primary care physician for the patient incident to the mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the same deductible and coinsurance conditions applied to the mastectomy and all other terms and conditions applicable to other benefits **with the exception that no time limit shall be imposed on an individual for the receipt of prosthetic devices or reconstructive surgery and if such individual changes his or her insurer, then the new policy subject to the federal Women's Health and Cancer Rights Act (sections 901-903 of P.L. 105-277), as amended, shall provide coverage consistent with the federal Women's Health and Cancer Rights Act (sections 901-903 of P.L. 105-277), as amended, and any regulations promulgated pursuant to such act.**

2. As used in this section, the term "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a physician licensed pursuant to chapter 334, RSMo.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy or long-term care policy.

SECTION 1. CONTRACTS BY THE DEPARTMENT OF INSURANCE IN EXCESS OF \$100,000 TO BE REVIEWED AND APPROVED BY THE ATTORNEY GENERAL. — 1. Notwithstanding any other provision of law, when the department of insurance intends to enter into any contract or other written agreement or approve any letter of intent for payment of money by the state in excess of one hundred thousand dollars, modification or potential reduction of a party's financial obligation to the state in excess of one hundred thousand dollars, the department of insurance shall forward a copy to the attorney general before entering into that contract, subcontract or other written agreement or approving the letter of intent.

2. Upon receiving the contract, other written agreement or letter of intent, the attorney general shall, within ten days, review and approve that contract, other written contract or letter of intent for its legal form and content as may be necessary to protect the legal interest of the state. If the attorney general does not approve, then the attorney general shall return the contract, other written agreement or letter of intent with additional proposed provisions as may be necessary to the proper enforcement of the contract as required to protect the state's legal interest. If the attorney general does not respond within ten days or, in the case of any contract that involves a payment of money by the state or a modification or potential reduction of a party's financial obligation to the state of one million dollars or more, within thirty days, the contract shall be deemed approved.

3. Communications related to the attorney general's review are attorney-client communications. The attorney general's written disposition shall be subject to chapter 610, RSMo.

Approved June 21, 2001

HB 779 [HB 779]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes lease of property by Northwest Missouri State University to Missouri National Guard and City of Maryville.

AN ACT to authorize the conveyance of property interest owned by Northwest Missouri State University to the Missouri National Guard and the City of Maryville.

SECTION

1. Lease agreement between Northwest Missouri State University and the Missouri national guard and the city of Maryville, duration, purpose.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. LEASE AGREEMENT BETWEEN NORTHWEST MISSOURI STATE UNIVERSITY AND THE MISSOURI NATIONAL GUARD AND THE CITY OF MARYVILLE, DURATION, PURPOSE.

— **1. The board of regents of Northwest Missouri State University is hereby authorized to enter into a lease agreement with the Missouri National Guard and the City of Maryville for a period of fifty years, with the right of renewal of such lease. The purpose of the lease shall be to allow the Missouri National Guard and the City of Maryville to construct a National Guard Armory and City Activities Center.**

- 2. The property subject to the lease is legally described as follows:**

Commencing at the Northwest Corner Section 18, Township 64 North, Range 35 West, Nodaway County, Missouri; thence along Range Line, South 01 degrees 46 minutes 53 seconds West 598.36 feet to the Point of Beginning; thence departing from said line, South 88 degrees 13 minutes 07 seconds East 810.60 feet; thence South 01 degrees 46 minutes 53 seconds West 824.75 feet; thence North 88 degrees 13 minutes 07 seconds West 810.60 feet to Range Line; thence along Range Line, North 01 degrees 46 minutes 53 seconds East 824.76 feet to the point of beginning, containing 15.35 acres, more or less. Also, a sixty (60) feet wide roadway easement being thirty (30) feet right and thirty (30) feet left of the below described centerline: Commencing at the Northwest Corner of Section 18, Township 64 North, Range 35 West, Nodaway County, Missouri; thence along Range Line, South 01 degrees 46 minutes 53 seconds West 598.36 feet to the Northwest Corner of the above described 15.35 acre tract; thence along the North Line of said Tract, South 88 degrees 13 minutes 07 seconds East 570.16 feet to the Point of Beginning; thence along the centerline of said roadway running northwesterly, 43.86 feet by arc distance along a 287.94 feet radius curve to the left, thence North 15 degrees 53 minutes 17 seconds West 81.47 feet, thence northeasterly 228.12 feet by arc distance along a 287.94 feet radius curve to the right; thence North 29 degrees 30 minutes 19 seconds East 62.70 feet; thence northeasterly 145.59 feet by arc distance along a 287.94 feet radius curve to the left; thence North 00 degrees 32 minutes 06 seconds East 61.46 feet to the intersection of the North Line of the Northwest Quarter of said Section 18, being the point of termination.

3. The lease shall contain terms and conditions acceptable to the board of regents of Northwest Missouri State University, the Missouri National Guard and the City of Maryville.

- 4. The attorney general shall approve as to form the instrument of conveyance.**

Approved June 7, 2001

HB 788 [HB 788]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals certain provisions relating to motorcycle franchise practices.

AN ACT to repeal sections 407.1000, 407.1005, 407.1010, 407.1015 and 407.1020, RSMo 2000, relating to motorcycle franchise practices.

SECTION

- A. Enacting clause.
- 407.1000. Definitions.
- 407.1005. Unlawful practices.
- 407.1010. Franchisee's action against franchisor, cause, remedies.
- 407.1015. Jurisdiction over franchisees and franchisors.
- 407.1020. Defenses of franchisor to action brought by franchisee.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 407.1000, 407.1005, 407.1010, 407.1015 and 407.1020, RSMo 2000, are repealed.

[407.1000. DEFINITIONS. — As used in sections 407.1000 to 407.1020, unless the context otherwise requires, the following terms mean:

(1) "Coerce", to force a person to act in a given manner or to compel by pressure or threat but shall not be construed to include the following:

(a) Good faith recommendations, exposition, argument, persuasion or attempts at persuasion;

(b) Notice given in good faith to any franchisee of such franchisee's violation of terms or provisions of such franchise or contractual agreement;

(c) Any other conduct set forth in section 407.1020 as a defense to an action brought pursuant to sections 407.1000 to 407.1020; or

(d) Any other conduct set forth in sections 407.1000 to 407.1020 that is permitted of the franchisor or is expressly excluded from coercion or a violation of sections 407.1000 to 407.1020;

(2) "Franchise", a written arrangement or contract for a definite or indefinite period, in which a person grants to another person a license to use, or the right to grant to others a license to use, a trade name, trademark, service mark, or related characteristics, in which there is a community of interest in the marketing of goods or services, or both, at wholesale or retail, by agreement, lease or otherwise, and in which the operation of the franchisee's business with respect to such franchise is substantially reliant on the franchisor for the continued supply of franchised new motorcycles, parts and accessories for sale at wholesale or retail;

(3) "Franchisee", a person to whom a franchise is granted;

(4) "Franchisor", a person who grants a franchise to another person;

(5) "Motorcycle", a motor vehicle operated on two wheels;

(6) "New", when referring to motorcycles or parts, means those motorcycles or parts which have not been held except as inventory, as that term is defined in subdivision (4) of section 400.9-109, RSMo;

(7) "Person", a sole proprietor, partnership, corporation, or any other form of business organization.]

[407.1005. UNLAWFUL PRACTICES. — The performance, whether by act or omission, by a motorcycle franchisor of any or all of the following activities enumerated in this section are hereby defined as unlawful practices, the remedies for which are set forth in section 407.1010:

(1) To engage in any conduct which is capricious, in bad faith, or unconscionable and which causes damage to a motorcycle franchisee or to the public; provided, that good faith conduct engaged in by motorcycle franchisors as sellers of new motorcycles or parts or as holders of security interest therein, in pursuit of rights or remedies accorded to sellers of goods or to holders of security interests pursuant to the provisions of chapter 400, RSMo, uniform commercial code, shall not constitute unfair practices pursuant to sections 407.1000 to 407.1020;

(2) To coerce any motorcycle franchisee to accept delivery of any new motorcycle or motorcycles, equipment, parts or accessories therefor, or any other commodity or commodities which such motorcycle franchisee has not ordered after such motorcycle franchisee has rejected

such commodity or commodities. It shall not be deemed a violation of this section for a motorcycle franchisor to require a motorcycle franchisee to have an inventory of parts, tools, and equipment reasonably necessary to service the motorcycles sold by a motorcycle franchisor; or new motorcycles reasonably necessary to meet the demands of dealers or the public or to display to the public the full line of a motorcycle franchisor's product line;

(3) To unreasonably refuse to deliver in reasonable quantities and within a reasonable time after receipt of orders for new motorcycles, such motorcycles as are so ordered and as are covered by such franchise and as are specifically publicly advertised by such motorcycle franchisor to be available for immediate delivery; provided, however, the failure to deliver any motorcycle shall not be considered a violation of sections 407.1000 to 407.1020 if such failure be due to an act of God, work stoppage, or delay due to a strike or labor difficulty, shortage of products or materials, freight delays, embargo or other cause of which such motorcycle franchisor shall have no control;

(4) To coerce any motorcycle franchisee to enter into any agreement with such motorcycle franchisor or to do any other act prejudicial to such motorcycle franchisee, by threatening to cancel any franchise or any contractual agreement existing between such motorcycle franchisor and motorcycle franchisee; provided, however, that notice in good faith to any motorcycle franchisee of such motorcycle franchisee's violation of any provisions of such franchise or contractual agreement shall not constitute a violation of sections 407.1000 to 407.1020;

(5) To terminate or cancel the franchise or selling agreement of any motorcycle franchisee except a termination or cancellation made by reason of a substantial default by such franchisee in the performance of such motorcycle franchisee's reasonable and lawful obligations to such motorcycle franchisor under the franchise. The nonrenewal of a motorcycle franchise or selling agreement shall constitute an unfair termination or cancellation, regardless of the terms or provisions of such franchise or selling agreement unless it is not renewed by reason of:

(a) A substantial default by such motorcycle franchisee in the performance of such motorcycle franchisee's reasonable and lawful obligations to such motorcycle franchisor under the nonrenewed franchise or selling agreement; or

(b) The discontinuance of the sale in the state of Missouri of such motorcycle franchisor's products which are the subject of the franchise;

(6) To prevent by contract or otherwise, any motorcycle franchisee from changing the capital structure of the franchisee's franchise of such motorcycle franchisee or the means by or through which the franchisee finances the operation of the franchisee's franchise, provided the motorcycle franchisee at all times meets any reasonable capital standards agreed to between the motorcycle franchisee and the motorcycle franchisor and grants to the motorcycle franchisor a purchase money security interest in the new motorcycles, new parts and accessories purchased from the motorcycle franchisor;

(7) To prevent by contract or otherwise any motorcycle franchisee or any officer, partner or stockholder of any motorcycle franchisee from selling or transferring any part of the interest of any of them to any other person or persons or party or parties; provided, if the franchise specifically permits the franchisor to approve or disapprove of any such proposed sale or transfer, a franchisor shall only be allowed to disapprove of a proposed sale or transfer if the interest being sold or transferred when added to any other interest owned by the transferee constitutes fifty percent or more of the ownership interest in the franchise and if the proposed transferee fails to satisfy any standards of the franchisor which are in fact normally relied upon by the franchisor prior to its entering into a franchise, and which relate to the proposed management or ownership of the franchise operations or to the qualification, capitalization, integrity, or character of the proposed transferee and which are reasonable. In order to exercise a franchisor's right of disapproval as set forth herein the franchisor shall:

(a) Notify, in writing, the franchisee of the franchisor's disapproval within thirty working days of the franchisor's receipt of a written proposal to consummate such sale or transfer; provided, however, that the franchisee and the prospective franchisee shall cooperate fully with

the franchisor in providing information relating to the prospective transferee's capitalization, integrity and character;

(b) Specify in such written notice the reasonable standards which the franchisor contends are not satisfied and the reasons the franchisor contends such standards are not satisfied. Failure on the part of the franchisor to fully comply with either paragraph (a) of this subdivision or this paragraph shall be conclusively deemed an approval by the franchisor of the proposed sale or transfer to the proposed transferee;

(8) To prevent by contract or otherwise any motorcycle franchisee from changing the executive management of the motorcycle franchisee's business, except that any attempt by a motorcycle franchisor to demonstrate by giving reasons that such change in executive management will be detrimental to the distribution of the motorcycle franchisor's motorcycles shall not constitute a violation of this subdivision;

(9) To impose unreasonable standards of performance upon a motorcycle franchisee;

(10) To require a motorcycle franchisee at the time of entering into a franchise arrangement to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by sections 407.1000 to 407.1020;

(11) To prohibit directly or indirectly the right of free association among motorcycle franchisees for any lawful purpose;

(12) To provide any term or condition in any lease or other agreement ancillary or collateral to a franchise, which term or condition directly or indirectly violates the provisions of sections 407.1000 to 407.1020.]

[407.1010. FRANCHISEE'S ACTION AGAINST FRANCHISOR, CAUSE, REMEDIES. — Any motorcycle franchisee may bring an action against a motorcycle franchisor with whom the franchisee has a franchise, for an act or omission which constitutes an unlawful practice as defined in section 407.1005 to recover damages sustained by reason thereof, and, where appropriate, such motorcycle franchisee shall be entitled to injunctive relief, but the remedies set forth in this section shall not be deemed exclusive and shall be in addition to any other remedies permitted by law.]

[407.1015. JURISDICTION OVER FRANCHISEES AND FRANCHISORS. — Any person who is engaged or engages directly or indirectly in purposeful contacts within the state of Missouri in connection with the offering, advertising, purchasing, selling, or contracting to purchase or to sell new motorcycles, or who, being a motorcycle franchisor, is transacting or transacts any business with a motorcycle franchisee who maintains a place of business within the state and with whom the franchisee has a franchise, shall be subject to the jurisdiction of the courts of the state of Missouri, upon service of process in accordance with the provisions of section 506.510, RSMo, irrespective of whether such person is a manufacturer, importer, distributor or dealer in new motorcycles.]

[407.1020. DEFENSES OF FRANCHISOR TO ACTION BROUGHT BY FRANCHISEE. — It shall be a defense for a motorcycle franchisor, to any action brought pursuant to sections 407.1000 to 407.1020 by a motorcycle franchisee, if it is shown that such motorcycle franchisee has failed to substantially comply with reasonable and lawful requirements imposed by the franchise and other agreements ancillary or collateral thereto, or if the motorcycle franchisee, or any of its officers, have been convicted of a felony relevant to business honesty or business practices, or if the motorcycle franchisee has ceased conducting its business or has abandoned the franchise, or is insolvent as that term is defined in subdivision (23) of section 400.1-201, RSMo, or has filed a voluntary petition in bankruptcy, or has made an assignment for benefit of creditors, or has been the subject of an involuntary proceeding under the federal bankruptcy act or under any state insolvency law which is not vacated within twenty days from the institution thereof, or there has been an appointment of a receiver or other officer having similar powers for the motorcycle

franchisee or the motorcycle franchisee's business who is not removed within twenty days from the person's appointment, or there has been a levy under attachment, execution or similar process which is not within ten days vacated or removed by payment or bonding, and it shall be a defense to any action brought pursuant to sections 407.1000 to 407.1020 that the complained of conduct by a motorcycle franchisor was undertaken in good faith in pursuit of rights or remedies accorded to a motorcycle franchisor as a seller of goods or a holder of a security interest pursuant to the provisions of chapter 400, RSMo.]

Approved July 10, 2001

HB 796 [SCS HB 796]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires manufacturers, packers, distributors or sellers of drugs or devices to comply with the current federal labeling requirements in the Federal Food, Drug and Cosmetic Act.

AN ACT to repeal section 196.100, RSMo 2000, relating to labeling of drugs, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

196.100. When drug or device misbranded.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 196.100, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 196.100, to read as follows:

196.100. WHEN DRUG OR DEVICE MISBRANDED. — 1. [A drug or device shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular;
- (2) If in package form unless it bears a label containing:
 - (a) The name and place of business of the manufacturer, packer, or distributor; and
 - (b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under paragraph (b) of this subdivision reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department of health;
- (3) If any word, statement, or other information required by or under authority of sections 196.010 to 196.120 to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (4) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alphaeucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which derivative has been by the department after investigation, found to be, and by regulations under sections 196.010 to 196.120, designated as,

habit forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning — may be habit forming";

(5) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears:

(a) The common or usual name of the drug, if such there be; and

(b) In case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided, that to the extent that compliance with the requirements of paragraph (b) of this subdivision is impracticable, exemptions shall be established by regulations promulgated by the department of health;

(6) Unless its labeling bears:

(a) Adequate directions for use; and

(b) Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that where any requirement of paragraph (a) of this subdivision, as applied to any drug or device, is not necessary for the protection of the public health, the department shall promulgate regulations exempting such drug or device from such requirements;

(7) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the department. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia;

(8) If it has been found by the department to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the department shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the department shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements;

(9) If it is a drug and its container is so made, formed, or filled as to be misleading; or if it is an imitation of another drug; or if it is offered for sale under the name of another drug;

(10) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof;

(11) If it purports to be, or is represented as a drug composed wholly or in part of insulin, unless it is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C.A. 356 and, such certificate or release is in effect with respect to such drug.] **Any manufacturer, packer, distributor or seller of drugs or devices in this state shall comply with the current federal labeling requirements contained in the Federal Food, Drug and Cosmetic Act, as amended, and any federal regulations promulgated thereunder. Any drug or device which contains labeling that is not in compliance with the provisions of this section shall be deemed misbranded.**

2. A drug dispensed on a written prescription signed by a licensed physician, dentist, or veterinarian, except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to a diagnosis by mail, shall be exempt from the requirements of this section if such physician, dentist, or veterinarian is licensed by law to administer such drug, and such drug

bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian.

3. The department is hereby directed to promulgate regulations exempting from any labeling or packaging requirement of sections 196.010 to 196.120, drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of said sections upon removal from such processing, labeling, or repacking establishment.

Approved June 7, 2001

HB 801 [SCS HB 801]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits release of nonpublic information by financial institutions.

AN ACT relating to compliance with Title V of the federal Gramm- Leach-Bliley Financial Modernization Act of 1999, with an emergency clause.

SECTION

1. Disclosure of nonpublic personal information by financial institutions prohibited, rules, notice.
- A. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION BY FINANCIAL INSTITUTIONS PROHIBITED, RULES, NOTICE. — **1.** No person shall disclose any nonpublic personal information to a nonaffiliated third party contrary to the provisions of Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 (15 U.S.C. 6801 to 6809). A state agency with the primary regulatory authority over an activity engaged in by a financial institution which is subject to Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 may adopt rules and regulations to carry out this section with respect to such activity. Such rules and regulations adopted pursuant to this section shall be consistent with and not be more restrictive than standards contained in Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999.

2. Unless prohibited by federal law or regulation, any financial institution required to provide a disclosure of the institution's privacy policy pursuant to Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 shall provide an initial notice regarding such privacy policy:

- (1) At the time the customer relationship is established for consumers who become new customers of the financial institution on or after July 1, 2001; and
- (2) Before June 30, 2002, for consumers who are existing customers of the financial institution. A financial institution shall not disclose any nonpublic personal information to a nonaffiliated third party contrary to the provisions of Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 before the financial institution has made the disclosure required in this section.

SECTION A. EMERGENCY CLAUSE. — Because of the need to protect consumer confidentiality, the enactment of section 1 of this act is deemed necessary for the immediate

preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 1 of this act shall be in full force and effect upon its passage and approval or July 1, 2001, whichever later occurs.

Approved May 23, 2001

HB 808 [SCS HB 808 & HB 951]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the conveyance of two parcels of property to Jefferson City.

AN ACT to authorize conveyance of certain property owned by the state located in Cole County.

SECTION

1. Conveyance of property in Cole County to the City of Jefferson.
2. Terms and conditions of conveyance set by commissioner of administration.
3. Attorney general to approve the form of the instrument of conveyance.
4. Conveyance of property in Cole County to Governor Hotel, LLC.
5. Consideration for conveyance.
6. Attorney general to approve the form of the instrument of conveyance.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY IN COLE COUNTY TO THE CITY OF JEFFERSON. — The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in fee simple absolute in two parcels of property owned by the state in the County of Cole, State of Missouri, to the City of Jefferson. The parcels are legally described as follows:

Part of Tracts 3 & 4 of a Plat of Subdivision, Ewing Farm as per plat of record in Plat Book 1, page 69, Cole County Recorder's Office, being situated in U.S. PRIVATE SURVEY NO. 2616, Township 44 North, Range 10 West, Cole County, Missouri, more particularly described as follows:

From the northwest corner of the Northeast Fractional Quarter of Section 20 Township 44 North, Range 10 West; thence S2 22'44"W, along the Quarter Section Line, 2327.98 feet to a point on the northerly line of the Missouri Pacific Railroad Right-of-way; thence Westerly, along the northerly line of said Railroad Right-of-way, the following courses: S52 57'12"W, 100.14 feet; thence Westerly, on a curve to the right, having a radius of 1835.53 feet, an arc distance of 1057.19 feet, (the chord of said curve being S69 27'12"W, 1042.64 feet); thence S87 26'42"W, 145.86 feet; thence S88 10'42"W, 581.10 feet; S1 49'18"E, 35.00 feet; thence S88 10'42"W, 1465.03 feet; thence leaving the aforesaid Railroad Right-of-way line N7 50'42"W, 203.40 feet to the POINT OF BEGINNING for this description; thence N7 50'42"W, 805.61 feet; thence N16 54'16"W, 507.55 feet; thence N74 30'25"E, 1172.32 feet; thence Southerly, on a curve to the left, having a radius of 2550.00 feet, an arc distance of 588.47 feet, (the chord of said curve being S2 57'09"E, 587.17 feet); thence S9 33'49"E, 248.06 feet; thence Southerly, on a curve to the right, having a radius of 4950.00 feet, an arc distance of 138.55 feet, (the chord of said curve being S8 45'42"E, 138.55 feet); thence S7 57'36"E, 603.07 feet; thence S88 14'34"W, 1048.68 feet to the POINT OF BEGINNING.

Containing 35.01 Acres.

and

Part of Inlot Nos. 61 and 62 and a part of a 20 foot wide vacated alley in the City of Jefferson City, Cole County, Missouri, more particularly described as follows:

From the southwesterly corner of Inlot No. 61; thence N.41N59'18"E. along the westerly line of said Inlot No. 61, 99.49 feet to the northwesterly corner of a tract described by deed of record in Book 277, Page 344, Cole County Recorder's Office and the Point of Beginning for this description; thence continuing N.41N59'18"E. along the westerly line of said Inlot No. 61, 78.83 feet; thence Easterly on a curve to the right, having a radius of 882.87 feet, an arc distance of 49.14 feet, the chord of said curve being S.85N49'19"E., 49.13 feet to a point in the center of a 20 foot wide vacated alley (vacated by city ordinance number 2783, March, 1926); thence S.47N33'47"E. along the center of said vacated alley, 169.90 feet to a point on the northerly extension of the easterly line of Inlot No. 62; thence S.41N59'18"W. along the northerly extension of and along the easterly line of said Inlot No. 62, 109.26 feet to the northerly line of a tract described by Quitclaim Deed of record in Book 283, Page 167, Cole County Recorder's Office; thence N.47N33'47"W. along the northerly line of said tract and along the northerly line of the aforesaid tract in Book 277, Page 344, 208.72 feet to the Point of Beginning.

Containing an area of 22,218.93 square feet or 0.51 of an acre, more or less.

SECTION 2. TERMS AND CONDITIONS OF CONVEYANCE SET BY COMMISSIONER OF ADMINISTRATION. — The commissioner of administration shall set the terms and conditions for the sales as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place and terms of the sales.

SECTION 3. ATTORNEY GENERAL TO APPROVE THE FORM OF THE INSTRUMENT OF CONVEYANCE. — The attorney general shall approve as to form the instrument or instruments of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY IN COLE COUNTY TO GOVERNOR HOTEL, LLC. — The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in the following described real property owned by the state in Cole County to Governor Hotel, LLC, to wit:

Part of Inlot No 333, in the City of Jefferson, Missouri, more particularly described as follows:

From the Northwestern corner of said Inlot No. 333; thence South 41 degrees 55 minutes 56 seconds West, along the Westerly line of said Inlot No. 333, 140.00 feet to a point on the Southwesterly corner of the tract described in Book 371, Page 831, and said corner being the Northwestern corner of the tract described in Book 96, Page 415, Cole County Recorder's Office, thence South 48 degrees 35 minutes 27 seconds East, along the Southerly line of said tract described in Book 371, Page 831, and along the Northerly line of said tract described in Book 96, Page 415, 55.47 feet to the point of beginning for this description; thence continuing South 48 degrees 35 minutes 27 seconds East, along the Southerly line of said tract described in Book 371, Page 831 and along the Northerly line of said tract described in Book 96, Page 415, 12.87 feet to a point on the Westerly line of the Special Easement for Road Right of Way and Utility purposes as recorded in Book 398, Page 238, Cole County Recorder's Office; Thence South 41 degrees 56 minutes 58 seconds West, along the Westerly line of said Special Easement for Road Right of Way and Utility purposes, 7.27 feet; Thence North 48 degrees 35 minutes 27 seconds West, parallel to the Southerly line of said tract described in Book 371, Page 831, and the Northerly line of said tract described in Book 96, Page 415, 12.87 feet; thence North 41

degrees 56 minutes 58 seconds East, parallel to the Westerly line of said Special Easement for Road Right of Way and Utility purposes, 7.27 feet to the point of beginning.

SECTION 5. CONSIDERATION FOR CONVEYANCE. — Consideration for the conveyance shall be as negotiated between the parties.

SECTION 6. ATTORNEY GENERAL TO APPROVE THE FORM OF THE INSTRUMENT OF CONVEYANCE. — The attorney general shall approve as to form the instrument of conveyance.

Approved July 10, 2001

HB 816 [HB 816]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Replaces oath requirement with signature requirement for making claim for certain tax refunds.

AN ACT to repeal sections 136.035 and 144.190, RSMo 2000, relating to authenticating claims for tax refunds, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

136.035. Director to refund taxes, when — claim to be filed within two years of date of payment.

144.190. Refund of overpayments — claim for refund — time for making claims — paid to whom — direct pay agreement for certain purchasers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 136.035 and 144.190, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 136.035 and 144.190, to read as follows:

136.035. DIRECTOR TO REFUND TAXES, WHEN — CLAIM TO BE FILED WITHIN TWO YEARS OF DATE OF PAYMENT. — 1. The director of revenue from funds appropriated shall refund any overpayment or erroneous payment of any tax which the state is authorized to collect. The general assembly shall appropriate and set aside funds sufficient for the use of the director of revenue to make refunds authorized by this section or by final judgment of court.

2. The director of revenue shall refund any overpayment or erroneous payment of any tax on intangible personal property and the amount refunded shall be charged against the next apportionment to the political subdivision which was the residence or situs of the taxpayer at the time the tax was paid.

3. No refund shall be made by the director of revenue unless a claim for refund has been filed with him within two years from the date of payment. Every claim must be in writing [under oath] and **signed by the applicant**, and must state the specific grounds upon which the claim is founded.

144.190. REFUND OF OVERPAYMENTS — CLAIM FOR REFUND — TIME FOR MAKING CLAIMS — PAID TO WHOM — DIRECT PAY AGREEMENT FOR CERTAIN PURCHASERS. — 1.

If a tax has been incorrectly computed by reason of a clerical error or mistake on the part of the director of revenue, such fact shall be set forth in the records of the director of revenue, and the amount of the overpayment shall be credited on any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and the balance shall be refunded to the person legally obligated to remit the tax, such person's administrators or executors, as provided for in section 144.200.

2. If any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.510, and the balance, with interest as determined by section 32.065, RSMo, shall be refunded to the person legally obligated to remit the tax, but no such credit or refund shall be allowed unless duplicate copies of a claim for refund are filed within three years from date of overpayment.

3. Every claim for refund must be in writing [under oath,] **and signed by the applicant**, and must state the specific grounds upon which the claim is founded. Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered in any action brought by the director of revenue against the person legally obligated to remit the tax. In the event that a tax has been illegally imposed against a person legally obligated to remit the tax, the director of revenue shall authorize the cancellation of the tax upon the director's record.

4. Notwithstanding the provisions of this section, the director of revenue shall authorize direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, RSMo, 67, RSMo, 92, RSMo, and 94, RSMo, shall be remitted based upon the location of the place of business of the purchaser.

Approved June 8, 2001

HB 821 [HB 821]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the Missouri Kidney Program to provide immunosuppressive pharmaceuticals to other transplant patients.

AN ACT to amend chapter 172, RSMo, by adding thereto one new section relating to a University of Missouri program to assist organ transplant patients.

SECTION

A. Enacting clause.

172.875. Organ transplant program, University of Missouri — Missouri kidney program to establish guidelines — administrative costs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 172, RSMo, is amended by adding thereto one new section, to be known as section 172.875, to read as follows:

172.875. ORGAN TRANSPLANT PROGRAM, UNIVERSITY OF MISSOURI — MISSOURI KIDNEY PROGRAM TO ESTABLISH GUIDELINES — ADMINISTRATIVE COSTS. — 1. The Missouri kidney program in the University of Missouri, a statewide program that provides treatment for renal disease, shall administer a separate program to provide assistance for immunosuppressive pharmaceuticals and other services for other organ transplant patients. The Missouri kidney program shall establish guidelines and eligibility requirements and procedures, similar to those established to serve eligible end stage renal disease patients, for other organ transplant patients to receive assistance pursuant to this section.

2. Every person who receives assistance as a new participant in the Missouri kidney program pursuant to this section shall pay the administrative costs associated with such person's participation in the program.

3. The Missouri kidney program shall coordinate efforts with the divisions of family services and medical services in the department of social services to provide the most efficient and cost-effective assistance to organ transplant patients.

4. From funds appropriated to provide assistance pursuant to this section, the priority shall be to provide pharmaceutical services. If other funds are available through the transplant program, other services for the treatment of organ transplant patients may be provided.

Approved June 13, 2001

HB 825 [HB 825]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Corrects statute on exemption of bullion and investment coins from sales tax.

AN ACT to repeal section 144.815, RSMo 2000, relating to the exemption from taxation of bullion and investment coins, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

144.815. Bullion and investment coins, sales and use tax exemption.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.815, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 144.815, to read as follows:

144.815. BULLION AND INVESTMENT COINS, SALES AND USE TAX EXEMPTION. — In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from [the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo.] **all local sales taxes, as defined in section 32.085, RSMo,** and sections 144.010 to 144.510 and 144.600 to [144.745] **144.757,** and from the computation of the tax levied, assessed or payable pursuant to [sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739,

67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo] **all local sales taxes as defined in section 32.085, RSMo**, and sections 144.010 to [144.510] **144.525** and 144.600 to [144.745] **144.811**, purchases of bullion and investment coins. For purposes of this section, the following terms shall mean:

(1) "Bullion", gold, silver, platinum or palladium in a bulk state, where its value depends on its content rather than its form, with a purity of not less than nine hundred parts per one thousand; and

(2) "Investment coins", numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium or metals with a fair market value greater than the face value of the coins.

Approved June 8, 2001

HB 865 [HB 865]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises law concerning public reporting of certain school information.

AN ACT to repeal section 160.522, RSMo 2000, and to enact in lieu thereof one new section relating to building-level school accountability report cards.

SECTION

A. Enacting clause.

160.522. School accountability report card provided by school districts, distribution — standard form, contents — summary of accreditation, contents.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 160.522, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 160.522, to read as follows:

160.522. SCHOOL ACCOUNTABILITY REPORT CARD PROVIDED BY SCHOOL DISTRICTS, DISTRIBUTION — STANDARD FORM, CONTENTS — SUMMARY OF ACCREDITATION, CONTENTS. — 1. [The state board of education shall adopt a policy for the public reporting of information by school districts on an annual basis.] **School districts shall provide, at least annually, a school accountability report card for each school building to any household with a student enrolled in the district. Methods of distribution of the school accountability report card may include, but are not restricted to:**

- (1) Distribution at the time and place of student enrollment;**
- (2) Inclusion with student grade reports;**
- (3) Newspaper publication;**
- (4) Posting by the school district by Internet or other electronic means generally accessible to the public; or**
- (5) Making copies available upon request at all school or administrative buildings in any school district.**

The school district reports shall be distributed to all media outlets serving the district, and shall be made available, **upon request**, to all district patrons and to each member of the general assembly representing a legislative district which contains a portion of the school district.

2. The department of elementary and secondary education shall develop [multiple reporting models] **a standard form for the school accountability report card** which may be used by

school districts [for their public reports]. The information reported shall include, but not be limited to, enrollment, rates of pupil attendance, high school dropout rate, the rates and durations of, and reasons for, suspensions of ten days or longer and expulsions of pupils, staffing ratios, including the district ratio of students to all teachers, to administrators, and to classroom teachers, the average years of experience of professional staff and advanced degrees earned, student achievement as determined through the assessment system developed pursuant to section 160.518, student scores on the SAT or ACT, **as appropriate**, along with the percentage of students taking each test, average teachers' and administrators' salaries compared to the state averages, average salaries of noncertificated personnel compared to state averages, average per pupil expenditures for the district as a whole and [for each building in the district which has pupils at the same grade level as another building in the district,] **by attendance center as reported to the department of elementary and secondary education**, voted and adjusted tax rates levied, assessed valuation, percent of the district operating budget received from state, federal, and local sources, [extracurricular activities offered and the costs associated with each activity,] the number of students eligible for free or reduced lunch, school calendar information, including [the number of] days [and hours for] **of** student attendance, parent-teacher conferences, and staff development or in-service training, data on course offerings and rates of participation in parent-teacher conferences, special education programs, early childhood special education programs, parents as teachers programs, vocational education programs, gifted or enrichment programs, and advanced placement programs, data on the number of students continuing their education in postsecondary programs and information about job placement for students who complete district vocational education programs, and the district's most recent accreditation by the state board of education, including measures for school improvement.

3. The public reporting shall permit the disclosure of data on a school-by-school basis, but the reporting shall not be personally identifiable to any student or education professional in the state.

4. The annual report made by the state board of education pursuant to section 161.092, RSMo, shall include a summary of school districts accredited, provisionally accredited, and unaccredited under the Missouri school improvement program, including an analysis of standards met and not met, and an analysis of state program assessment data collected pursuant to section 160.526, describing the kinds of tasks students can perform.

Approved June 14, 2001

HB 881 [SCS HB 881]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the county commission to either elect six at-large or six election district nursing home district directors for a nursing home district.

AN ACT to repeal section 198.280, RSMo 2000, relating to nursing home districts, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

198.280. Election districts — election of directors — terms — qualifications — declaration of candidacy — appointed if no candidate — no election required when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 198.280, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 198.280, to read as follows:

198.280. ELECTION DISTRICTS — ELECTION OF DIRECTORS — TERMS — QUALIFICATIONS — DECLARATION OF CANDIDACY — APPOINTED IF NO CANDIDATE — NO ELECTION REQUIRED WHEN. — 1. After the nursing home district has been declared organized, the declaring county commission shall **either:**

(1) Divide the district into six election districts as equal in population as possible, and shall by lot number the districts from one to six, inclusive. The county commission shall cause an election to be held in the nursing home district within ninety days after the order establishing the nursing home district to elect nursing home district directors. The election shall be called, held and conducted and notice shall be given as provided in sections 198.240 to 198.270, and each voter shall vote for the director from his **or her** district; **or**

(2) **Cause an election to be held in the nursing home district within ninety days after the order establishing the nursing home district to elect six at-large nursing home district directors. The election shall be called, held and conducted and notice shall be given as provided in sections 198.240 to 198.270.** After August 28, 1994, directors shall be elected for a term of three years. The first director whose term expires after August 28, 1994, shall continue to hold office until the expiration of the term of the second director whose term expires after August 28, 1994, at which time both such directors shall be elected for a term of three years. The third director whose term expires after August 28, 1994, shall continue to hold office until the expiration of the term of the fourth director whose term expires after August 28, 1994, at which time both such directors shall be elected for a term of three years. The fifth director whose term expires after August 28, 1994, shall continue to hold office until the expiration of the term of the sixth director whose term expires after August 28, 1994, at which time both such directors shall be elected for a term of three years. All directors shall serve until their successors are elected and qualified. If a vacancy occurs, the board shall select a successor who shall serve until the next regular election of a director is to be held in that **nursing home or election** district. If no candidate files a declaration of candidacy for a **nursing home or election** district, a majority of the board of directors may, after the election in that **nursing home or election** district would have regularly been held, appoint any resident of the nursing home district who otherwise qualifies [under] **pursuant to** subsection 2 of this section to fill that vacancy.

2. Following the initial election establishing the nursing home district board of directors pursuant to subsection 1 of this section, the circuit court may choose to elect the board of directors at large.

[2.] **3.** Candidates for director of the nursing home district shall be citizens of the United States, resident taxpayers of the nursing home district who have resided within the state for one year next preceding the election and who are at least twenty-four years of age. All candidates shall file their declarations of candidacy with the county commission calling the election at least twenty days prior to the special election.

[3.] **4.** Notwithstanding any other provisions of law to the contrary, if the number of candidates for the office of director is equal to the number of directors to be elected, no election shall be held, and the candidates shall assume the responsibility of their offices at the same time and in the same manner as if they have been elected; however, if any vacancies are created after local certification and prior to the deadline provided in subdivision (4) of section 115.453, RSMo, which cause the number of filed candidates to be less than the number of vacancies to

be filled, an election shall be held, and write-in candidates for such positions shall be eligible as otherwise provided by law.

Approved July 10, 2001

HB 897 [HB 897]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits Department of Revenue from gathering or including on driver's license any information for which it does not have statutory authority.

AN ACT to repeal section 32.091, RSMo 2000, relating to motor vehicle records, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

- 32.091. Definitions — disclosure of individual motor vehicle records, when — certain disclosures prohibited without express consent — disclosure pursuant to United States law — disclosure for purposes of public safety — certain information not to be collected, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 32.091, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 32.091, to read as follows:

32.091. DEFINITIONS — DISCLOSURE OF INDIVIDUAL MOTOR VEHICLE RECORDS, WHEN — CERTAIN DISCLOSURES PROHIBITED WITHOUT EXPRESS CONSENT — DISCLOSURE PURSUANT TO UNITED STATES LAW — DISCLOSURE FOR PURPOSES OF PUBLIC SAFETY — CERTAIN INFORMATION NOT TO BE COLLECTED, WHEN. — 1. As used in sections 32.090 and 32.091, the following terms mean:

(1) "Motor vehicle record", any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration or identification card issued by the department of revenue;

(2) "Person", an individual, organization or entity, but does not include a state or agency thereof;

(3) "Personal information", information that identifies an individual, including an individual's photograph, Social Security number, driver identification number, name, address, but not the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations and driver's status.

2. The department of revenue may disclose individual motor vehicle records pursuant to Section 2721(b)(11) of Title 18 of the United States Code and may disclose motor vehicle records in bulk pursuant to Section 2721(b)(12) of Title 18 of the United States Code, as amended by Public Law 106-69, Section 350, only if the department has obtained the express consent of the person to whom such personal information pertains.

3. Notwithstanding any other provisions of law to the contrary, the department of revenue shall not disseminate a person's driver's license photograph, Social Security number and medical or disability information from a motor vehicle record, as defined in Section 2725(1) of Title 18 of the United States Code without the express consent of the person to whom such information

pertains, except for uses permitted under Sections 2721(b)(1), 2721(b)(4), 2721(b)(6) and 2721(b)(9) of Title 18 of the United States Code.

4. The department of revenue shall disclose any motor vehicle record or personal information permitted to be disclosed pursuant to Sections 2721(b)(1) to 2721(b)(10) and 2721(b)(13) to 2721(b)(14) of Title 18 of the United States Code except for the personal information described in subsection 3 of this section.

5. Pursuant to Section 2721(b)(14) of Title 18 of the United States Code, any person who has a purpose to disseminate to the public a newspaper, book, magazine, broadcast or other similar form of public communication, including dissemination by computer or other electronic means, may request the department to provide individual or bulk motor vehicle records, such dissemination being related to the operation of a motor vehicle or to public safety. Upon receipt of such request, the department shall release the requested motor vehicle records.

6. This section is not intended to limit media access to any personal information when such access is provided by agencies or entities in the interest of public safety and is otherwise authorized by law.

7. **The department of revenue shall not collect from persons applying for any driver's license issued by the department any information by which such persons can be individually identified, unless the department has specific statutory authorization to collect such information; nor shall the department of revenue include on any driver's license, in print, magnetic, digital, or any other format, any information by which an individual may be identified, unless the department has specific statutory authorization to include such information.**

Approved July 12, 2001

HB 904 [SCS HB 904]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the Missouri Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.

AN ACT to repeal sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330 and 252.333, RSMo 2000, relating to agroforestry, and to enact in lieu thereof eight new sections relating to the same subject.

SECTION

A. Enacting clause.

252.303. Agroforestry program developed — who may develop plan.

252.306. Definitions.

252.309. Incentive payments — agreements with landowners — amount of payments.

252.315. Application for participation — contents — review of application — administrative procedure.

252.321. Agroforestry demonstration areas established.

252.324. Rules and regulations, procedure.

252.330. Payment for planting trees.

252.333. Federal incentive payments for land enrolled in the program, duration.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330 and 252.333, RSMo 2000, are repealed and eight new sections

enacted in lieu thereof, to be known as sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330 and 252.333, to read as follows:

252.303. AGROFORESTRY PROGRAM DEVELOPED — WHO MAY DEVELOP PLAN. — The department [shall] **may** develop and implement, in cooperation with the University of Missouri college of agriculture, **the University of Missouri Center for Agroforestry**, the University of Missouri extension service, the Missouri department of natural resources, private industry councils[, the United States Department of Agriculture,] and the Missouri department of agriculture, an agroforestry program. The program shall be designed to [complement a new or extended federal conservation reserve plan which as part of its provisions allows and encourages] **encourage** the development of a state program of agroforestry, and shall encourage soil conservation and diversifications of the state's agricultural base through the use of trees planted [or otherwise established in lanes with grass strips or row crops or both in between the lanes] **in an agroforestry configuration to accommodate alley cropping, forested-riparian buffers, silvopasture and windbreaks.**

252.306. DEFINITIONS. — As used in sections 252.300 to 252.333, the following terms shall mean:

(1) **"Alley cropping", planting rows of trees at wide spacings and cropping the alleyways;**

(2) "Conservation reserve program", the conservation reserve program authorized by the Federal Food Security Act of 1985, as amended, (Title XII, P.L. 99-198), or its successor program;

[(2)] (3) "Department", the Missouri department of conservation;

[(3)] (4) "Director", the director of the Missouri department of conservation;

[(4)] (5) "Eligible land", agricultural land which is susceptible to soil erosion [and is placed in the federal conservation reserve program as of or after August 28, 1990, or other highly erosive land which is not enrolled in the conservation reserve program, as determined by the director of the department] **that has a recent cropping history, marginal pasture land, land surrounding livestock enclosures and riparian zones;**

(6) **"Eligible practices", single or multiple rows of trees, alone or combined with other plants such as grass, conventional row crops or horticulture crops, and animals located at intervals of distance within or around fields, around livestock enclosures, and along streams and rivers, specifically designed to provide production and environmental enhancement benefits in accordance with the practices identified in section 252.303;**

[(5)] (7) "Enhancement phase", the period of time, not to exceed ten years, immediately following the establishment phase, during which payments are made by the state of Missouri to landowners who use their eligible land for agroforestry purposes as required by the department;

[(6)] (8) "Establishment phase", the period of time during which eligible land is [placed and held in the federal conservation reserve program or a six-month period for other highly erosive land which is not enrolled in the conservation reserve program] **being prepared for planting trees and developing agroforestry practices**, as determined by the director of the department;

(9) **"Forested-riparian buffers", a combination of trees and other vegetation established parallel to streams and rivers;**

(10) **"Silvopasture", combining trees with forage and livestock;**

(11) **"Windbreaks", planting single or multiple rows of trees for protection and enhanced production of crops and animals.**

252.309. INCENTIVE PAYMENTS — AGREEMENTS WITH LANDOWNERS — AMOUNT OF PAYMENTS. — 1. The director may enter into agreements with individual landowners to make [such] **incentive payments during the enhancement phase** to landowners. Recipients of such

payments shall utilize the land for which such payment is made for agroforestry purposes as required by the director [under] **pursuant to** sections 252.300 to 252.333. [In administering such payments, the director may make such agreements with the United States Department of Agriculture as the director deems necessary or appropriate.]

2. The amount of state incentive payment made to a landowner per acre of eligible land shall be [the lesser of:

(1)] an amount which, when added to any cash or in-kind **net** income produced by crops raised on the land, is substantially equal to the amount per acre previously paid or which would have been paid to the landowner under the federal conservation reserve program]; or

(2) An amount less than that provided in subdivision (1) of this subsection, if such lesser amount does not significantly reduce the number of acres for which agroforestry incentive payments are made under this section].

3. If an application made pursuant to section 252.315 is approved by the director, the director shall develop a schedule of annual payments to be made by the state.

4. The state shall not make any payment to a landowner to maintain the use of eligible land during the enhancement phase for agroforestry purposes after ten years have elapsed since the first such incentive payment is made.

252.315. APPLICATION FOR PARTICIPATION — CONTENTS — REVIEW OF APPLICATION — ADMINISTRATIVE PROCEDURE. — 1. To participate in the program, the landowner shall make application to the director in writing. The written application shall show the number of acres to be placed in the program and that the land which is to be placed in the agroforestry program meets the eligibility requirements of this section. The application shall also contain a detailed plan of the landowner's proposal to meet the requirements of sections 252.300 to 252.333, including the type **and number** of [tree] **trees** to be planted, established, or managed, the type of compatible grass [and the row crop or crops to be grown in the alternative strips], **other crops** and such other information as may be deemed necessary. **The number of trees required to satisfy eligibility may vary with agroforestry practice, but in each case shall be a sufficient number to guarantee the success of the practice and shall be consistent with standards established for each practice.**

2. The director shall review each application. In reviewing the application the director shall determine the type or types of soil located in the area of the land proposed to be included in the agroforestry program and shall apply the land capability classification system to determine the potential or limitations of the land for inclusion in the program. Before the director acts upon the application, an on-site inspection shall be made by a representative of the department of conservation or its approved agent. The inspecting representative shall attest to the efficacy of the agroforestry plan to be used, the number of acres to be placed under agroforestry management, the species **and number** of trees to be planted, established, or managed, and [agronomic] **other crop** components of the proposed program. After the report of the on-site inspector and the review by the director, the director shall determine the landowner's eligibility to participate in the agroforestry program and shall determine the amount of cost sharing, including in-kind and labor components, for the landowner. If the director fails to approve an application, the aggrieved landowner may request a hearing before the conservation commission or its authorized representative within thirty days of notice to the landowner of the failure of the conservation department to approve the application, or the landowner may proceed under the provisions of section 536.150, RSMo, as if the act of the conservation department was one not subject to administrative review. If an action is brought pursuant to section 536.150, RSMo, venue shall be in Cole County.

252.321. AGROFORESTRY DEMONSTRATION AREAS ESTABLISHED. — [The director shall develop demonstration agroforestry conservation programs to illustrate to landowners in this state the benefits and advantages of participation in such a program. Demonstration sites shall be

selected by the director to involve various soil types and various erosion dangers and shall be geographically located among the major farming areas of the state. The director shall contract with the University of Missouri extension service for the delivery of the demonstration educational component of sections 252.300 to 252.333.] **The University of Missouri center of agroforestry and extension service, in consultation with the director, shall establish agroforestry demonstration areas, and develop and deliver the educational components of sections 252.300 to 252.333.**

252.324. RULES AND REGULATIONS, PROCEDURE. — 1. The director may promulgate rules and regulations necessary to carry out the provisions of sections 252.300 to 252.333. Before promulgating any such rule, the director shall seek the advice and comments of the University of Missouri college of agriculture, **the University of Missouri Center for Agroforestry**, the University of Missouri extension service, the Missouri department of natural resources, private industry councils, [the United States Department of Agriculture.] the Missouri department of economic development and the Missouri department of agriculture. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

2. The Missouri department of conservation may contract with the division of soil and water conservation of the Missouri department of natural resources for any administrative functions required under the provisions of sections 252.300 to 252.333.

252.330. PAYMENT FOR PLANTING TREES. — During the establishment phase, the director may pay for the planting of trees on eligible land which is used for agroforestry pursuant to sections 252.300 to 252.333. Such payment shall be limited to expenses which are determined to be reasonable and necessary by the director, **but shall not exceed seventy-five percent of the cost of establishment.**

252.333. FEDERAL INCENTIVE PAYMENTS FOR LAND ENROLLED IN THE PROGRAM, DURATION. — The director may make incentive payments for agroforestry purposes of land [which is susceptible to soil erosion] **enrolled in this program**. The duration of such payments shall not exceed ten years. The director may also expend funds to plant trees on such land. Such expenditures may include both planting and associated practices as determined by the director.

Approved June 7, 2001

HB 922 [HB 922]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the City of Monett to annex municipal airport.

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to annexation by certain cities.

SECTION

A. Enacting clause.

67.1352. Annexation of municipal airports, when (city of Monett).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.1352, to read as follows:

67.1352. ANNEXATION OF MUNICIPAL AIRPORTS, WHEN (CITY OF MONETT). — Notwithstanding the provisions of any other law to the contrary, the governing body of any third class city with a population of at least seven thousand but not more than seven thousand five hundred located in a county of the third classification without a township form of government and with a population of at least twenty-seven thousand two hundred but not more than twenty-seven thousand six hundred may annex the area of any municipal airport located along a state highway within six miles of such city and areas contiguous to the municipal airport.

Approved June 8, 2001

HB 933 [HB 933]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies that sales tax applies to sale and lease of motor vehicles and motorcycles.

AN ACT to repeal section 144.020, RSMo 2000, relating to the state sales tax, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

144.020. Rate of tax — tickets, notice of sales tax — lease or rental of personal property exempt from taxation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.020, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 144.020, to read as follows:

144.020. RATE OF TAX — TICKETS, NOTICE OF SALES TAX — LEASE OR RENTAL OF PERSONAL PROPERTY EXEMPT FROM TAXATION. — 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, **including but not limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors**, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local and long distance telecommunications service to telecommunications subscribers and to others

through equipment of telecommunications subscribers for the transmission of messages and conversations and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to the Internet or interactive computer services shall not be considered as amounts paid for telecommunications services;

(5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

(7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in subdivision (8) of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase [or use], **rental or lease** of motor vehicles, trailers, **motorcycles, mopeds, motortricycles**, boats, and outboard motors shall be taxed and the tax paid as provided in [sections] **this section and section** 144.070 [and 144.440]. No tax shall be collected on the rental or lease of motor vehicles, trailers, boats, and outboard motors, except as provided in sections 144.070 and 144.440]. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax.".

Approved June 26, 2001

HB 945 [SCS HB 945]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes counties or a city not within a county to elect between two different juror compensation schemes.

AN ACT to repeal sections 488.429 and 494.455, RSMo 2000, relating to funding for court services, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 488.429. Fund paid to treasurer designated by circuit judge — use of fund for law library.
- 494.455. Compensation of jurors, mileage — additional compensation may be authorized, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 488.429 and 494.455, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 488.429 and 494.455, to read as follows:

488.429. FUND PAID TO TREASURER DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY. — **1.** Moneys collected pursuant to section 488.426 shall be payable to the circuit judge or judges of the circuit court of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the circuit judge or judges of the circuit court of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the circuit judge or judges of the circuit court of any such county; provided, that the judge or judges of the circuit of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. In any county of the first classification without a charter form of government and with a population of at least two hundred thousand, such fund may also be applied and expended for that county's or circuit's family services and justice fund.

494.455. COMPENSATION OF JURORS, MILEAGE — ADDITIONAL COMPENSATION MAY BE AUTHORIZED, WHEN. — **1. Each county or city not within a county may elect to compensate its jurors pursuant to subsection 2 of this section except as otherwise provided in subsection 3 of this section.**

2. Each grand and petit juror shall receive six dollars per day, for every day he or she may actually serve as such, and seven cents for every mile he **or she** may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county.

[2. Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to subsection 3 of this section in the amount of at least six dollars per day in addition to the amount required by subsection 1 of this section, a person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage as indicated in subsection 1 of this section, for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.

3.] The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors, which additional compensation shall be paid from the funds of the county or a city not within a county. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors may receive the additional compensation and mileage allowance authorized by this subsection only if the governing body of the county or the city not within a county authorizes the additional compensation. The provisions of this subsection authorizing additional compensation shall terminate upon the issuance of a mandate by the Missouri supreme court which results in the state of Missouri being obligated or required to pay any such additional compensation even if such additional

compensation is formally approved or authorized by the governing body of a county or a city not within a county. **Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to this subsection in the amount of at least six dollars per day in addition to the amount required by this subsection, a person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.**

3. In any county of the first classification without a charter form of government and with a population of at least two hundred thousand inhabitants, no grand or petit juror shall receive compensation for the first two days of service, but shall receive fifty dollars per day for the third day and each subsequent day he or she may actually serve as such, and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county.

4. When each panel of jurors summoned and attending court has completed its service, the board of jury commissioners shall cause to be submitted to the governing body of the county or a city not within a county a statement of fees earned by each juror. Within thirty days of the submission of the statement of fees, the governing body shall cause payment to be made to those jurors summoned the fees earned during their service as jurors.

Approved July 13, 2001

HB 955 [HB 955]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the Hospital Federal Reimbursement Allowance Program.

AN ACT to repeal sections 208.471 and 208.480, RSMo 2000, and to enact in lieu thereof two new sections relating to the hospital federal reimbursement allowance program.

SECTION

- A. Enacting clause.
- 208.471. Medicaid reimbursement payments to hospitals — FRA assessments — enhanced graduate medical education payments — alternative reimbursement payments to hospital for Medicaid provider agreements or reimbursement for outpatient services, certain limits not to apply to outpatient services.
- 208.480. Federal reimbursement allowance to expire September 30, 2004.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.471 and 208.480, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.471 and 208.480, to read as follows:

208.471. MEDICAID REIMBURSEMENT PAYMENTS TO HOSPITALS — FRA ASSESSMENTS — ENHANCED GRADUATE MEDICAL EDUCATION PAYMENTS — ALTERNATIVE REIMBURSEMENT PAYMENTS TO HOSPITAL FOR MEDICAID PROVIDER AGREEMENTS OR REIMBURSEMENT FOR OUTPATIENT SERVICES, CERTAIN LIMITS NOT TO APPLY TO OUTPATIENT SERVICES. — 1. The department of social services shall make payments to those

hospitals which have a Medicaid provider agreement with the department. **Prior to June 30, 2002**, the payment shall be in an annual, aggregate statewide amount which is at least the same as that paid in fiscal year 1991-1992 pursuant to rules in effect on August 30, 1991, under the federally approved state plan amendments.

2. **Beginning July 1, 2002, sections 208.453 to 208.480 shall expire one hundred eighty days after the end of any state fiscal year in which the aggregate federal reimbursement allowance (FRA) assessment on hospitals is more than eighty-five percent of the sum of aggregate direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments, unless during such one hundred eighty-day period, such payments or assessments are adjusted prospectively by the director of the department of social services to comply with the eighty-five percent test imposed by this subsection. Enhanced graduate medical education payments shall not be included in the calculation required by this subsection if the general assembly appropriates the state's share of such payments from a source other than the federal reimbursement allowance. For purposes of this section, direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments shall:**

(1) **Include direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments as defined in state regulations as of July 1, 2000;**

(2) **Include payments that substantially replace or supplant the payments described in subdivision (1) of this subsection;**

(3) **Include new payments that supplement the payments described in subdivision (1) of this subsection; and**

(4) **Exclude payments and assessments of acute care hospitals with an unsponsored care ratio of at least sixty-five percent that are licensed to operate less than fifty inpatient beds in which the state's share of such payments are made by certification.**

3. The division of medical services may provide an alternative reimbursement for outpatient services. Other provisions of law to the contrary notwithstanding, the payment limits imposed by subdivision (2) of section 1 of section 208.152 shall not apply to such alternative reimbursement for outpatient services. **Such alternative reimbursement may include enhanced payments or grants to hospital-sponsored clinics serving low income uninsured patients.**

208.480. FEDERAL REIMBURSEMENT ALLOWANCE TO EXPIRE SEPTEMBER 30, 2004. — Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, [2001] 2004.

Approved June 22, 2001

HB 1000 [SCS HS HCS HB 1000]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the composition of congressional districts.

AN ACT to repeal sections 128.345 and 128.346, RSMo 2000, and to enact in lieu thereof eleven new sections relating to the composition of congressional districts.

SECTION

A. Enacting clause.

128.345. Definitions.

- 128.346. Congressional districts for election of representatives to the U.S. Congress.
- 128.400. First congressional district (2000 census).
- 128.405. Second congressional district (2000 census).
- 128.410. Third congressional district (2000 census).
- 128.415. Fourth congressional district (2000 census).
- 128.420. Fifth congressional district (2000 census).
- 128.425. Sixth congressional district (2000 census).
- 128.430. Seventh congressional district (2000 census).
- 128.435. Eighth congressional district (2000 census).
- 128.440. Ninth congressional district (2000 census).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 128.345 and 128.346, RSMo 2000, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 128.345, 128.346, 128.400, 128.405, 128.410, 128.415, 128.420, 128.425, 128.430, 128.435 and 128.440, to read as follows:

128.345. DEFINITIONS. — All references in sections 128.345 to 128.366 to counties, voting districts (VTD), and tract-blocks mean those counties, voting districts (VTD), and tract-blocks as reported to the state by the United States Bureau of the Census for the 1990 census. **All references in sections 128.400 to 128.440 to counties, voting districts (VTD), and tract-blocks (BLK) mean those counties, voting districts (VTD), and tract-blocks (BLK) as reported to the state by the United States Bureau of the Census for the 2000 census.**

128.346. CONGRESSIONAL DISTRICTS FOR ELECTION OF REPRESENTATIVES TO THE U.S. CONGRESS. — The districts established by the provisions of sections 128.345 to 128.366 for the election of representatives to the Congress of the United States[,], **shall be effective** beginning with election to the 103rd Congress[,], shall replace and supersede the congressional district report as filed by the United States District Court for the western district of Missouri with the secretary of state of Missouri on January 7, 1982] **and through the election to the 107th Congress. The districts established by the provisions of sections 128.400 to 128.440 for the election of representatives to the Congress of the United States shall be effective beginning with election to the 108th Congress.**

128.400. FIRST CONGRESSIONAL DISTRICT (2000 CENSUS). — **The first district shall be composed of the following:**

St. Louis County (part)

VTD: 18910 Airport26

VTD: 18911 Airport27&49&62

VTD: 18912 Airport29&53

VTD: 189126 CreveCoeur1

VTD: 189127 CreveCoeur11&12&13

VTD: 189128 CreveCoeur14&15&24&51

VTD: 189129 CreveCoeur16&82

VTD: 18913 Airport30

VTD: 189130 CreveCoeur17&47&58

VTD: 189131 CreveCoeur2&9&10

VTD: 189132 CreveCoeur20&28&30&38&46&60&63&64

VTD: 189133 CreveCoeur21&39&67&68&69&70&71&72&73&74

VTD: 189134 CreveCoeur22&40&61&75&76&77&78&79&80&818

VTD: 189135 CreveCoeur23&33

VTD: 189136 CreveCoeur25

VTD: 189137 CreveCoeur26

VTD: 189138 CreveCoeur27
VTD: 189139 CreveCoeur29&31&37&45
VTD: 18914 Airport31&33
VTD: 189140 CreveCoeur3&5
VTD: 189141 CreveCoeur34&66
VTD: 189142 CreveCoeur35
VTD: 189143 CreveCoeur36&55
VTD: 189144 CreveCoeur4&32&50&56&59
VTD: 189145 CreveCoeur42
VTD: 189146 CreveCoeur43&57&62
VTD: 189147 CreveCoeur44
VTD: 189148 CreveCoeur48
VTD: 189149 CreveCoeur49
VTD: 189150 CreveCoeur53&54
VTD: 189152 CreveCoeur6&8&18&19&41&52&83
VTD: 189153 CreveCoeur7MHT13&29
VTD: 189154 Ferguson1&12&21
VTD: 189155 Ferguson10
VTD: 189156 Ferguson11
VTD: 189157 Ferguson14&31&40&55
VTD: 189158 Ferguson16&17
VTD: 189159 Ferguson18&19&27
VTD: 18916 Airport32&37&41
VTD: 189160 Ferguson2&4&25&39
VTD: 189161 Ferguson20&60
VTD: 189162 Ferguson22&29
VTD: 189163 Ferguson24&26
VTD: 189164 Ferguson28&30
VTD: 189165 Ferguson3&13&15&23&51
VTD: 189166 Ferguson32&36
VTD: 189167 Ferguson33&56
VTD: 189168 Ferguson34&35
VTD: 189169 Ferguson42
VTD: 18917 Airport34&64
VTD: 189170 Ferguson43
VTD: 189171 Ferguson44&45&46&52
VTD: 189172 Ferguson47
VTD: 189173 Ferguson48&50
VTD: 189174 Ferguson49
VTD: 189175 Ferguson5
VTD: 189176 Ferguson58SPL9
VTD: 189177 Ferguson59
VTD: 189178 Ferguson6
VTD: 189179 Ferguson7&37
VTD: 18918 Airport4&28
VTD: 189180 Ferguson8&38&57
VTD: 189181 Ferguson9
VTD: 189183 Florissant1&2LC20SPL4
VTD: 189184 Florissant12&24&33&36&46
VTD: 189185 Florissant14&28&47
VTD: 189186 Florissant15
VTD: 189187 Florissant16&26&29&41&49

VTD: 189188 Florissant17
VTD: 189189 Florissant19&42&18&23
VTD: 18919 Airport44
VTD: 189190 Florissant20&37&48
VTD: 189191 Florissant21&44&50
VTD: 189192 Florissant22&32
VTD: 189193 Florissant27&31&40
VTD: 189194 Florissant3FER41
VTD: 189195 Florissant30&35
VTD: 189196 Florissant4&11
VTD: 189197 Florissant5&25
VTD: 189198 Florissant51&52
VTD: 189199 Florissant6&13
VTD: 1892 Airport1&2&3&6&20&48&51
VTD: 18920 Airport47
VTD: 189200 Florissant7&34&38&39
VTD: 189201 Florissant8
VTD: 189202 Florissant9&10&45
VTD: 18921 Airport5&18&21&39&46&57&59&63
VTD: 18922 Airport50
VTD: 18923 Airport54
VTD: 18924 Airport56
VTD: 18925 Airport60
VTD: 189251 Hadley6
VTD: 189252 Hadley7&8&36
VTD: 189254 HallsFerry1&2&3&6
VTD: 189255 HallsFerry10
VTD: 189256 HallsFerry11
VTD: 189257 HallsFerry12&13
VTD: 189258 HallsFerry14
VTD: 189259 HallsFerry15
VTD: 18926 Airport7&52
VTD: 189260 HallsFerry16&17&18&19
VTD: 189261 HallsFerry20
VTD: 189262 HallsFerry21
VTD: 189263 HallsFerry22
VTD: 189264 HallsFerry23&24
VTD: 189265 HallsFerry25&34&35
VTD: 189266 HallsFerry26&27&28&31&32&33
VTD: 189267 HallsFerry29&30FER61
VTD: 189268 HallsFerry37&38&39
VTD: 189269 HallsFerry4
VTD: 18927 Airport8&12
VTD: 189270 HallsFerry41&42
VTD: 189271 HallsFerry5
VTD: 189272 HallsFerry7
VTD: 189273 HallsFerry8&9
VTD: 18928 Airport9&13
VTD: 1893 Airport10&36&43
VTD: 189347 Lewis&Clark1&18
VTD: 189348 Lewis&Clark10
VTD: 189349 Lewis&Clark11&16&38NW33&63

VTD: 189350 Lewis&Clark14&28&42
VTD: 189351 Lewis&Clark15&33&40
VTD: 189352 Lewis&Clark17&26&30&35&39&24
VTD: 189353 Lewis&Clark19&27
VTD: 189354 Lewis&Clark2&3
VTD: 189355 Lewis&Clark21&31
VTD: 189356 Lewis&Clark23&25&37FLO43
VTD: 189357 Lewis&Clark29&43
VTD: 189358 Lewis&Clark36
VTD: 189359 Lewis&Clark4
VTD: 189360 Lewis&Clark5
VTD: 189361 Lewis&Clark6&9
VTD: 189362 Lewis&Clark7&13&34&41
VTD: 189363 Lewis&Clark8&22
VTD: 189365 MarylandHeights10&38&40
VTD: 189366 MarylandHeights11&23
VTD: 189367 MarylandHeights12&16&22 (part)
BLK: 132024013
BLK: 132024014
BLK: 132024015
BLK: 132024016
BLK: 132024017
VTD: 189368 MarylandHeights14
VTD: 189370 MarylandHeights17&25
VTD: 189377 MarylandHeights30&34 (part)
BLK: 151411019
BLK: 151411020
BLK: 151411021
BLK: 151411022
BLK: 151411023
BLK: 151412000
BLK: 151412001
BLK: 151412002
BLK: 151412003
BLK: 151412004
BLK: 151412005
BLK: 151412006
BLK: 151412007
BLK: 151412008
BLK: 151412011
BLK: 151412012
BLK: 151412013
BLK: 151412014
BLK: 151412015
VTD: 189378 MarylandHeights31&32&41&43 (part)
BLK: 151411011
BLK: 151423001
BLK: 151423002
BLK: 151423016
BLK: 151423017
VTD: 189382 MarylandHeights8&21&28
VTD: 189383 MarylandHeights9

VTD: 1894 Airport11&40&55MID32&46
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VTD: 189415 Midland17&52
VTD: 189416 Midland18&24
VTD: 189417 Midland19&34&38
VTD: 189418 Midland2&3&45
VTD: 189419 Midland20&29
VTD: 189420 Midland21&41&47
VTD: 189421 Midland26&54
VTD: 189422 Midland27&44
VTD: 189423 Midland28&31
VTD: 189424 Midland33
VTD: 189425 Midland35&39&55
VTD: 189426 Midland37
VTD: 189427 Midland4
VTD: 189428 Midland42&50
VTD: 189429 Midland25&43
VTD: 189430 Midland48
VTD: 189431 Midland49
VTD: 189432 Midland5&8&53
VTD: 189433 Midland6&11
VTD: 189434 Midland7&22
VTD: 189435 Midland9&23&30
VTD: 189437 MissouriRiver10&12
VTD: 189438 MissouriRiver16&47
VTD: 189446 MissouriRiver36&46&69 (part)
BLK: 153021000
BLK: 153021001
BLK: 153021021
BLK: 153022009
BLK: 153022010
VTD: 189451 MissouriRiver5&8&39&56&58&65&70&7 (part)
BLK: 153021002
BLK: 153021003
BLK: 153021007
BLK: 153021008
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BLK: 153021010
BLK: 153021011
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BLK: 153021013
BLK: 153021014
BLK: 153021031
BLK: 153022008
VTD: 189455 MissouriRiver68&72
VTD: 189457 MissouriRiver73&76&77
VTD: 189461 Normandy1
VTD: 189462 Normandy10&42&43&75

VTD: 189463 Normandy11&36&39&47&67&76
VTD: 189464 Normandy12&17&54NRW19
VTD: 189465 Normandy13&31
VTD: 189466 Normandy14&24
VTD: 189467 Normandy15&35&49
VTD: 189468 Normandy16&41&46&68
VTD: 189469 Normandy18&48
VTD: 189470 Normandy2
VTD: 189471 Normandy20&25&44
VTD: 189472 Normandy21
VTD: 189473 Normandy22&33&70&71
VTD: 189474 Normandy19&26&23&27&28
VTD: 189475 Normandy29
VTD: 189476 Normandy3
VTD: 189477 Normandy30&40&50&51&57&61
VTD: 189478 Normandy32
VTD: 189479 Normandy34
VTD: 189480 Normandy38&AP58
VTD: 189481 Normandy4&72
VTD: 189482 Normandy45&73&74
VTD: 189483 Normandy5&52
VTD: 189484 Normandy53
VTD: 189485 Normandy55&59&60
VTD: 189486 Normandy56
VTD: 189487 Normandy58
VTD: 189488 Normandy6&7
VTD: 189489 Normandy64&69&65&66&78
VTD: 189490 Normandy77AP17NRW18&20
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VTD: 189492 Northwest1
VTD: 189493 Northwest10&53
VTD: 189494 Northwest12&57
VTD: 189496 Northwest14&15&16
VTD: 189497 Northwest17&39&45AP35&38&42
VTD: 189498 Northwest18&41
VTD: 189499 Northwest19
VTD: 1895 Airport14&15
VTD: 189500 Northwest2&4
VTD: 189501 Northwest20&40
VTD: 189502 Northwest21&35&58 (part)
BLK: 132011003
BLK: 132011004
BLK: 132011005
BLK: 132011006
VTD: 189503 Northwest25&27&46&47&54
VTD: 189504 Northwest26
VTD: 189505 Northwest28&50
VTD: 189506 Northwest29&31&38&42
VTD: 189507 Northwest3
VTD: 189508 Northwest34LC12&32
VTD: 189509 Northwest36&49
VTD: 189510 Northwest37AP23

VTD: 189511 Northwest43
VTD: 189512 Northwest48
VTD: 189513 Northwest55
VTD: 189514 Northwest59&62
VTD: 189515 Northwest6
VTD: 189516 Northwest7&24&30&44&56
VTD: 189517 Northwest8&32
VTD: 189518 Northwest9&22&23&51&52
VTD: 189519 Norwood1
VTD: 189520 Norwood17
VTD: 189521 Norwood2&3&4
VTD: 189522 Norwood21&24
VTD: 189523 Norwood22&23
VTD: 189524 Norwood25&26
VTD: 189525 Norwood27&28
VTD: 189526 Norwood29
VTD: 189527 Norwood30&32&33&36&57
VTD: 189528 Norwood31&34HLF36
VTD: 189529 Norwood35HLF40
VTD: 189530 Norwood37&38&40
VTD: 189531 Norwood39&41
VTD: 189532 Norwood42&43&48&49&50
VTD: 189533 Norwood44&51&53
VTD: 189534 Norwood45&46
VTD: 189535 Norwood47
VTD: 189536 Norwood5&6&7
VTD: 189537 Norwood52&54&55
VTD: 189538 Norwood56NOR8
VTD: 189539Norwood8&9&10&11&12&13&14&15&16
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VTD: 189581 SpanishLake10&34
VTD: 189582 SpanishLake11&29
VTD: 189583 SpanishLake12&20
VTD: 189584 SpanishLake14
VTD: 189585 SpanishLake15&22
VTD: 189586 SpanishLake16
VTD: 189587 SpanishLake17
VTD: 189588 SpanishLake2&3
VTD: 189589 SpanishLake21&33
VTD: 189590 SpanishLake23
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VTD: 189596 SpanishLake5&18
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VTD: 189598 SpanishLake7
VTD: 189599 SpanishLake8&13&19
VTD: 1896 Airport16
VTD: 189600 St.Ferdinand1
VTD: 189601 St.Ferdinand10

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VTD: 189607 St.Ferdinand23&35
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VTD: 189615 St.Ferdinand6&8
VTD: 189616 St.Ferdinand7&9
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VTD: 189639 University11&12
VTD: 189640 University13&14
VTD: 189641 University15&16
VTD: 189642 University17
VTD: 189643 University18&19
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St. Louis City (part)
VTD: 51010 Ward1Pct5
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VTD: 510199 Ward22Pct9
VTD: 5102 Ward1Pct1
VTD: 510246 Ward26Pct1
VTD: 510247 Ward26Pct10
VTD: 510248 Ward26Pct11
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VTD: 510251 Ward26Pct3
VTD: 510252 Ward26Pct4
VTD: 510253 Ward26Pct5
VTD: 510254 Ward26Pct6
VTD: 510255 Ward26Pct7
VTD: 510256 Ward26Pct8
VTD: 510257 Ward26Pct9
VTD: 510258 Ward27Pct1
VTD: 510259 Ward27Pct10
VTD: 510260 Ward27Pct11
VTD: 510261 Ward27Pct12
VTD: 510262 Ward27Pct2
VTD: 510263 Ward27Pct3
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VTD: 510280 Ward28Pct5
VTD: 510281 Ward28Pct6
VTD: 510282 Ward28Pct7
VTD: 510283 Ward28Pct8
VTD: 510284 Ward28Pct9
VTD: 510285 Ward3Pct1
VTD: 510286 Ward3Pct10
VTD: 510287 Ward3Pct11
VTD: 510288 Ward3Pct12
VTD: 510289 Ward3Pct2
VTD: 510290 Ward3Pct3
VTD: 510291 Ward3Pct4
VTD: 510292 Ward3Pct5
VTD: 510293 Ward3Pct6
VTD: 510294 Ward3Pct7
VTD: 510295 Ward3Pct8
VTD: 510296 Ward3Pct9
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VTD: 510298 Ward4Pct10
VTD: 510299 Ward4Pct11
VTD: 5103 Ward1Pct10
VTD: 510300 Ward4Pct12
VTD: 510301 Ward4Pct13
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VTD: 510304 Ward4Pct4
VTD: 510305 Ward4Pct5
VTD: 510306 Ward4Pct6
VTD: 510307 Ward4Pct7
VTD: 510308 Ward4Pct8
VTD: 510309 Ward4Pct9
VTD: 510310 Ward5Pct1
VTD: 510311 Ward5Pct2
VTD: 510312 Ward5Pct3
VTD: 510313 Ward5Pct4
VTD: 510314 Ward5Pct5
VTD: 510315 Ward5Pct6
VTD: 510316 Ward5Pct7
VTD: 510317 Ward5Pct8
VTD: 510318 Ward5Pct9
VTD: 510320 Ward6Pct10
VTD: 510321 Ward6Pct11
VTD: 510324 Ward6Pct4
VTD: 510325 Ward6Pct5

VTD: 510326 Ward6Pct6
VTD: 510327 Ward6Pct7
VTD: 510328 Ward6Pct8
VTD: 510329 Ward6Pct9
VTD: 510331 Ward7Pct10
VTD: 510335 Ward7Pct14
VTD: 510341 Ward7Pct7
VTD: 510342 Ward7Pct8
VTD: 510370 Ward17Pct4
VTD: 510371 Ward20Pct7
VTD: 510372 Ward21Pct10
VTD: 5104 Ward1Pct11
VTD: 5105 Ward1Pct12
VTD: 5106 Ward1Pct13
VTD: 5107 Ward1Pct2
VTD: 5108 Ward1Pct3
VTD: 5109 Ward1Pct4

128.405. SECOND CONGRESSIONAL DISTRICT (2000 CENSUS). — The second district shall be composed of the following:

Lincoln County

St. Charles County (part)

VTD: 18310 107
VTD: 183100 26
VTD: 183101 27
VTD: 183102 3
VTD: 183103 31
VTD: 183104 32
VTD: 183105 33
VTD: 183106 34
VTD: 183107 35
VTD: 183108 36
VTD: 183109 37
VTD: 183110 4
VTD: 183111 41
VTD: 183112 42
VTD: 183113 43
VTD: 183114 44
VTD: 183115 45
VTD: 183117 47
VTD: 183118 5
VTD: 183119 51
VTD: 18312 108
VTD: 183120 52
VTD: 183121 53
VTD: 183122 54
VTD: 183123 55
VTD: 183124 56
VTD: 183125 57
VTD: 183126 6
VTD: 183127 61
VTD: 183128 62

VTD: 183129 63
VTD: 18313 109
VTD: 183130 70
VTD: 183131 71
VTD: 183132 72
VTD: 183133 80
VTD: 183134 81
VTD: 183135 82
VTD: 183136 83 (part)
BLK: 111112002
BLK: 111112023
BLK: 111113996
BLK: 111113997
BLK: 111113998
BLK: 111213023
BLK: 111213024
BLK: 111213026
BLK: 111213027
BLK: 111213028
BLK: 111213029
VTD: 183137 84
VTD: 183138 85
VTD: 183139 86
VTD: 18314 11
VTD: 183140 87
VTD: 183141 88
VTD: 18315 110
VTD: 18316 111
VTD: 18317 12
VTD: 18318 120
VTD: 18319 121
VTD: 1832 1
VTD: 18320 122
VTD: 18321 123
VTD: 18322 124
VTD: 18323 125
VTD: 18324 126
VTD: 18325 127
VTD: 18326 128
VTD: 18327 129
VTD: 18328 13
VTD: 18329 130
VTD: 1833 100
VTD: 18330 131
VTD: 18331 132
VTD: 18332 140
VTD: 18333 141
VTD: 18334 142
VTD: 18335 143
VTD: 18336 144
VTD: 18337 145
VTD: 18338 146

VTD: 18339 147
VTD: 1834 101
VTD: 18340 148
VTD: 18341 149
VTD: 18343 14
VTD: 18344 15
VTD: 18346 151
VTD: 18348 153
VTD: 18349 154
VTD: 1835 102
VTD: 18350 160
VTD: 18351 161
VTD: 18352 162
VTD: 18353 163
VTD: 18354 164
VTD: 18355 165
VTD: 18356 166
VTD: 18357 167
VTD: 18358 168
VTD: 18359 180
VTD: 1836 103
VTD: 18360 181
VTD: 18362 182
VTD: 18363 183
VTD: 18364 184
VTD: 18365 185
VTD: 18366 186
VTD: 1837 104
VTD: 18371 203 (part)
BLK: 111441023
BLK: 111441024
BLK: 111441025
BLK: 111441039
BLK: 111441040
BLK: 111441041
BLK: 111441042
BLK: 111441043
BLK: 111441044
BLK: 111441045
BLK: 111441046
BLK: 111441047
BLK: 111441048
BLK: 111441055
BLK: 111441057
BLK: 111441059
BLK: 111441060
BLK: 111441061
BLK: 111441062
BLK: 111441063
BLK: 111441064
BLK: 111441065
BLK: 111441089

BLK: 111441090
BLK: 111441091
BLK: 111441092
BLK: 111441093
BLK: 111441094
BLK: 111441095
BLK: 111441096
BLK: 111441097
BLK: 111441098
BLK: 111441099
BLK: 111441100
BLK: 111441138
BLK: 119021024
BLK: 119021027
BLK: 119021069
BLK: 119021070
BLK: 119021071
BLK: 119021072
BLK: 119021074
VTD: 18372 204
VTD: 18373 205
VTD: 18374 206 (part)
BLK: 111243032
BLK: 111243033
BLK: 111243034
BLK: 111243054
BLK: 111243055
BLK: 111243056
BLK: 111243057
BLK: 111243058
BLK: 111243059
BLK: 111243060
BLK: 111243061
BLK: 111243062
BLK: 111243063
BLK: 111243065
BLK: 111243074
BLK: 111344029
BLK: 111344030
BLK: 111344031
BLK: 111344032
BLK: 111344033
BLK: 111344034
BLK: 111344035
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BLK: 111344050
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BLK: 111344061
BLK: 111344062
BLK: 111344063
BLK: 111344064
BLK: 111344065
BLK: 111344066
BLK: 111344067
BLK: 111344068
BLK: 111344069
BLK: 111344070
BLK: 111344071
BLK: 111344072
BLK: 111344073
BLK: 111344074
BLK: 111344075
BLK: 111344076
BLK: 111344077
BLK: 111344078
BLK: 111344079
BLK: 111344080
BLK: 111344081
BLK: 111344082
BLK: 111344083
BLK: 111344084
BLK: 111344085
BLK: 111344086
BLK: 111344087
BLK: 111344088
BLK: 111344089
BLK: 111344090
BLK: 111344091
BLK: 111344092
BLK: 111344093
BLK: 111344094
BLK: 111344095

BLK: 111344096
BLK: 111344097
BLK: 111344098
BLK: 111344099
BLK: 111344100
BLK: 111344101
BLK: 111344102
BLK: 111344103
BLK: 111344104
BLK: 111344105
BLK: 111344106
BLK: 111344107
BLK: 111344108
BLK: 111344109
BLK: 111344110
BLK: 111344111
BLK: 111344112
VTD: 18376 207 (part)
BLK: 111441022
BLK: 111441102
BLK: 111441103
BLK: 111441104
BLK: 111441105
BLK: 111441106
BLK: 111441137
VTD: 18377 208
VTD: 18379 210 (part)
BLK: 119021073
BLK: 119021075
BLK: 119021076
BLK: 119021077
BLK: 119021078
BLK: 119021079
BLK: 119021080
BLK: 119021081
BLK: 119021082
VTD: 1838 105
VTD: 18381 211
VTD: 18382 212
VTD: 18384 21
VTD: 18385 22
VTD: 18386 220 (part)
BLK: 111031999
BLK: 111321011
VTD: 18387 221 (part)
BLK: 111243066
VTD: 1839 106
VTD: 18393 228
VTD: 18395 23
VTD: 18396 230 (part)
BLK: 111221000
BLK: 111221001

BLK: 111221002
BLK: 111221003
BLK: 111221004
BLK: 111221005
BLK: 111221006
BLK: 111221007
BLK: 111221008
BLK: 111221009
BLK: 111221010
BLK: 111221011
BLK: 111221012
BLK: 111221013
BLK: 111221014
BLK: 111221015
BLK: 111221016
BLK: 111221017
BLK: 111221018
BLK: 111221019
BLK: 111221020
VTD: 18398 24
VTD: 18399 25
St. Louis County (county)
VTD: 189103 Concord13&28
VTD: 189109 Concord23&29
VTD: 189110 Concord24&32&46&48&49
VTD: 189111 Concord25
VTD: 189115 Concord31
VTD: 189119 Concord42&45
VTD: 189120 Concord43
VTD: 189122 Concord47
VTD: 189203 Gravios1&28&56
VTD: 189204 Gravios10&17
VTD: 189205 Gravios11&57
VTD: 189206 Gravios13
VTD: 189207 Gravios14&50
VTD: 189217 Gravios26
VTD: 189219 Gravios29&32&47&48
VTD: 189223 Gravios36&59
VTD: 189226 Gravios41
VTD: 189227 Gravios43&44&49
VTD: 189228 Gravios5
VTD: 189229 Gravios53&60
VTD: 189231 Gravios9&45&46
VTD: 189232 Gravios9&45&46
VTD: 189274 Jefferson1&3
VTD: 189282 Jefferson2
VTD: 189289 Jefferson32&33&35
VTD: 18929 Bonhomme1
VTD: 189290 Jefferson34&36
VTD: 189291 Jefferson37&38&39&40
VTD: 189292 Jefferson4&5
VTD: 18930 Bonhomme10

VTD: 189302 Lafayette1&3
VTD: 189303 Lafayette14&28
VTD: 189304 Lafayette15&16&17
VTD: 189305 Lafayette18&19&20&21&51
VTD: 189306 Lafayette2&53
VTD: 189307 Lafayette22&23&50
VTD: 189308 Lafayette24&48&49
VTD: 189309 Lafayette25&26&36&37
VTD: 18931 Bonhomme11&26&44&49
VTD: 189310 Lafayette27
VTD: 189311 Lafayette29
VTD: 189312 Lafayette32
VTD: 189313 Lafayette33
VTD: 189314 Lafayette34&35&40&44
VTD: 189315 Lafayette38
VTD: 189316 Lafayette39
VTD: 189317 Lafayette4&52
VTD: 189318 Lafayette41&42&47
VTD: 189319 Lafayette43
VTD: 18932 Bonhomme12
VTD: 189320 Lafayette45
VTD: 189321 Lafayette46
VTD: 189322 Lafayette5
VTD: 189323 Lafayette6
VTD: 189324 Lafayette7&13
VTD: 189325 Lafayette8&9&10&11&12
VTD: 18933 Bonhomme13
VTD: 18935 Bonhomme16&37&38&39
VTD: 18936 Bonhomme17&18&21
VTD: 189364 MarylandHeights1&4&5
VTD: 189367 MarylandHeights12&16&22 (part)
BLK: 151011071
BLK: 151011072
BLK: 151011073
BLK: 151011074
BLK: 151012000
BLK: 151012001
BLK: 151012002
BLK: 151012003
BLK: 151012004
BLK: 151012005
BLK: 151012006
BLK: 151012007
BLK: 151012008
BLK: 151012009
BLK: 151012010
BLK: 151012011
BLK: 151012012
BLK: 151012013
BLK: 151012014
BLK: 151012015
BLK: 151012016

BLK: 151012017
BLK: 151012018
BLK: 151012019
BLK: 151012020
BLK: 151012021
BLK: 151012022
BLK: 151012024
BLK: 151013000
BLK: 151013001
BLK: 151013002
BLK: 151013003
BLK: 151013004
BLK: 151411000
BLK: 151411001
BLK: 151411002
BLK: 151411024
BLK: 151411998
BLK: 151411999
VTD: 189369 MarylandHeights15
VTD: 18937 Bonhomme2 (part)
BLK: 185002010
BLK: 185002011
BLK: 185002012
BLK: 185003000
BLK: 185003001
BLK: 185003002
BLK: 185003003
BLK: 185003007
BLK: 185003008
BLK: 185003009
BLK: 185003011
BLK: 185003012
BLK: 185003013
BLK: 185003014
BLK: 185003015
BLK: 185003016
BLK: 185003017
BLK: 185003018
BLK: 185003020
BLK: 185003021
BLK: 186001000
BLK: 186001001
BLK: 186001002
BLK: 186001003
BLK: 186001004
BLK: 186001006
BLK: 186001007
BLK: 186001008
BLK: 186001009
BLK: 186001010
VTD: 189371 MarylandHeights18&36&37&42
VTD: 189372 MarylandHeights19&33

VTD: 189373 MarylandHeights2&24&26CHE59
VTD: 189374 MarylandHeights20
VTD: 189375 MarylandHeights27CHE47
VTD: 189376 MarylandHeights3MR79
VTD: 189377 MarylandHeights30&34 (part)
BLK: 151051010
VTD: 189378 MarylandHeights31&32&41&43 (part)
BLK: 151422000
BLK: 151422001
BLK: 151422002
BLK: 151422003
BLK: 151422004
BLK: 151422005
BLK: 151422006
BLK: 151422007
BLK: 151422010
BLK: 151422011
BLK: 151422012
BLK: 151422013
BLK: 151422014
BLK: 151422015
BLK: 151422016
BLK: 151423000
BLK: 151423012
BLK: 151423013
BLK: 151423014
BLK: 151423015
VTD: 189379 MarylandHeights35MR17&75&78
VTD: 18938 Bonhomme23&47
VTD: 189380 MarylandHeights6
VTD: 189381 MarylandHeights7&39MR52
VTD: 189384 Meramec1&2&40
VTD: 189385 Meramec11&25&66
VTD: 189386 Meramec12&44&70
VTD: 189387 Meramec13&22&24&68&72
VTD: 189388 Meramec15
VTD: 189389 Meramec17
VTD: 189390 Meramec18&19&20
VTD: 189391 Meramec21&57&69
VTD: 189392 Meramec23
VTD: 189393 Meramec27&28&39&52&53&55CHE40&43&44&62
VTD: 189394 Meramec29&45&48&50&58&60
VTD: 189395 Meramec3&14&26&30&32
VTD: 189396 Meramec37&63
VTD: 189397 Meramec4&34&46&47
VTD: 189398 Meramec42
VTD: 189399 Meramec43&49&62&54
VTD: 18940 Bonhomme25&34
VTD: 189400 Meramec51
VTD: 189402 Meramec56&67
VTD: 189403 Meramec6&41
VTD: 189404 Meramec61&71

VTD: 189405 Meramec64
VTD: 189406 Meramec65
VTD: 189407 Meramec7&10&33
VTD: 189408 Meramec8&31&59CHE45
VTD: 189409 Meramec9&16&35
VTD: 18941 Bonhomme27
VTD: 18942 Bonhomme3&36&42&43&46
VTD: 18943 Bonhomme31&32
VTD: 189436 MissouriRiver1&2
VTD: 189439 MissouriRiver22&37&40&42
VTD: 18944 Bonhomme33
VTD: 189440 MissouriRiver23&34
VTD: 189441 MissouriRiver25&31&44&45&61
VTD: 189442 MissouriRiver26&55&60
VTD: 189443 MissouriRiver3&67
VTD: 189444 MissouriRiver30
VTD: 189445 MissouriRiver35&50
VTD: 189446 MissouriRiver36&46&69 (part)
BLK: 153021018
BLK: 153021019
BLK: 153021020
BLK: 153021022
BLK: 153021023
BLK: 153021024
BLK: 153021025
BLK: 153021026
BLK: 153021027
VTD: 189447 MissouriRiver38
VTD: 189448 MissouriRiver4&13&14&18&28&32&80BON30
VTD: 189449 MissouriRiver41&48&57&62
VTD: 189450 MissouriRiver49&51&54
VTD: 189451 MissouriRiver5&8&39&56&58&65&70&71 (part)
BLK: 152013016
BLK: 152013022
BLK: 152014015
BLK: 153021015
BLK: 153021016
BLK: 153021017
BLK: 153021028
BLK: 153021029
BLK: 153021030
BLK: 153021032
BLK: 153021033
BLK: 153021034
BLK: 153021035
BLK: 153021036
BLK: 153021037
BLK: 153024018
BLK: 153024019
BLK: 153024020
BLK: 153024021
BLK: 153024022

BLK: 153024023
BLK: 153024024
BLK: 153024025
BLK: 176003004
BLK: 176003005
BLK: 176003006
BLK: 176003008
BLK: 176005000
BLK: 176005001
BLK: 176005002
BLK: 176005003
BLK: 176005004
BLK: 176005005
BLK: 176005006
BLK: 176005007
BLK: 176005008
BLK: 176005010
BLK: 177011000
BLK: 177011019
BLK: 177011020
BLK: 177011021
BLK: 177011022
BLK: 177011023
BLK: 177011025
BLK: 177012000
BLK: 177012001
BLK: 177012002
BLK: 177012003
BLK: 177012010
VTD: 189452 MissouriRiver53&64
VTD: 189453 MissouriRiver59&63&66&74&82
VTD: 189454 MissouriRiver6&27&33
VTD: 189456 MissouriRiver7&11&19&20&21
VTD: 189458 MissouriRiver81
VTD: 189459 MissouriRiver9&15&24&29&43
VTD: 18946 Bonhomme40
VTD: 18947 Bonhomme5
VTD: 18948 Bonhomme6&19&20&45
VTD: 18949 Bonhomme7
VTD: 189495 Northwest13
VTD: 18950 Bonhomme8&22
VTD: 189502 Northwest21&35&58 (part)
BLK: 151011000
BLK: 151011001
BLK: 151011002
BLK: 151011003
BLK: 151011004
BLK: 151011005
BLK: 151011006
BLK: 151011007
BLK: 151011008
BLK: 151011009

BLK: 151011010
BLK: 151011011
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BLK: 151011015
BLK: 151011016
BLK: 151011017
BLK: 151011019
BLK: 151011020
BLK: 151011021
BLK: 151011022
BLK: 151011023
BLK: 151011024
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BLK: 151011066
BLK: 151011067
BLK: 151011068
BLK: 151011069
BLK: 151011070
BLK: 151011998
BLK: 151011999
VTD: 18951 Bonhomme9
VTD: 18952 Chesterfield1&7&14&28&61&64
VTD: 18953 Chesterfield10
VTD: 18954 Chesterfield31&12&52&73LAF31

VTD: 18955 Chesterfield13&26&27&63
VTD: 189558 Queeny1&24
VTD: 189559 Queeny10&11&19&32&36&39&42&46&50
VTD: 18956 Chesterfield15&16&22
VTD: 189560 Queeny12&17&40
VTD: 189561 Queeny15&45
VTD: 189562 Queeny2&3&22
VTD: 189563 Queeny21
VTD: 189564 Queeny23
VTD: 189565 Queeny25&28&35&38&51&52&53
VTD: 189566 Queeny26&27
VTD: 189567 Queeny29
VTD: 189568 Queeny30&56
VTD: 189569 Queeny31
VTD: 18957 Chesterfield17&51
VTD: 189570 Queeny33&43&48&54
VTD: 189571 Queeny34&47&57
VTD: 189572 Queeny37&55
VTD: 189573 Queeny4&5&6
VTD: 189574 Queeny41
VTD: 189575 Queeny44
VTD: 189576 Queeny58
VTD: 189577 Queeny7
VTD: 189578 Queeny8&13&14&16&18&49
VTD: 189579 Queeny9&20
VTD: 18958 Chesterfield18
VTD: 18959 Chesterfield2&32
VTD: 18960 Chesterfield21&24&75
VTD: 18961 Chesterfield23&54&55&56
VTD: 189617 TessonFerry1&2&5BON35&41
VTD: 189618 TessonFerry12&15
VTD: 189619 TessonFerry17&18
VTD: 18962 Chesterfield3&11
VTD: 189620 TessonFerry19
VTD: 189621 TessonFerry20&26
VTD: 189622 TessonFerry21
VTD: 189623 TessonFerry22&23
VTD: 189625 TessonFerry25&27&28
VTD: 189626 TessonFerry3&4&42
VTD: 18963 Chesterfield34&35&36&37&49&50&57&76&77
VTD: 189630 TessonFerry34
VTD: 189631 TessonFerry35
VTD: 189632 TessonFerry36
VTD: 189633 TessonFerry37&38
VTD: 189635 TessonFerry6
VTD: 189636 TessonFerry7&9&10&11
VTD: 189637 TessonFerry8&13&14&16
VTD: 18964 Chesterfield38&68&78
VTD: 18965 Chesterfield39&42&46
VTD: 18966 Chesterfield4&9&33
VTD: 18967 Chesterfield41&48&71
VTD: 18968 Chesterfield5&6&19&20&25&29&53

VTD: 18969 Chesterfield58&60&66&67&69MER5

VTD: 18970 Chesterfield65MER36&38

VTD: 18971 Chesterfield70

VTD: 18972 Chesterfield72&74LAF30

VTD: 18973 Chesterfield8&30

VTD: 18976 Clayton12

VTD: 18977 Clayton13&14&47

VTD: 18979 Clayton18&34&36&40&55

VTD: 18980 Clayton19&20&27

VTD: 18984 Clayton24&26&37

VTD: 18990 Clayton32&35 (part)

BLK: 174001002

BLK: 174001003

BLK: 174001004

BLK: 174001005

BLK: 174001006

BLK: 174001007

BLK: 174001008

BLK: 174001009

BLK: 174001010

BLK: 174001011

BLK: 174001012

BLK: 174001013

BLK: 174003001

BLK: 174003002

BLK: 174003003

BLK: 174003004

BLK: 174003005

BLK: 174003006

BLK: 174003007

BLK: 174003008

BLK: 174003009

BLK: 174004000

BLK: 174004001

BLK: 174004002

BLK: 174004003

BLK: 174004004

BLK: 174004005

BLK: 174004006

BLK: 174004007

BLK: 174004008

BLK: 174004009

BLK: 174004010

BLK: 174004011

BLK: 174004012

BLK: 174004013

BLK: 174004014

BLK: 174004015

BLK: 174004016

BLK: 174004017

BLK: 174004018

BLK: 174004019

BLK: 174004020
VTD: 18997 Clayton7

128.410. THIRD CONGRESSIONAL DISTRICT (2000 CENSUS). — The third district shall be composed of the following:

Jefferson County
St. Louis County (part)
VTD: 189100 Concord1&33
VTD: 189101 Concord10&22
VTD: 189102 Concord11&12&16&57
VTD: 189104 Concord14
VTD: 189105 Concord18&56
VTD: 189106 Concord2&34
VTD: 189107 Concord20&55LEM18
VTD: 189108 Concord21&30&51
VTD: 189112 Concord26&37
VTD: 189113 Concord19&38
VTD: 189114 Concord3&5&15&27&40&53
VTD: 189116 Concord35&36
VTD: 189117 Concord39
VTD: 189118 Concord4&6
VTD: 189121 Concord44
VTD: 189123 Concord50
VTD: 189124 Concord7&41&54
VTD: 189125 Concord8&9&52
VTD: 189208 Gravois15&30
VTD: 189209 Gravois16&23&31
VTD: 189210 Gravois18&34&37&51
VTD: 189211 Gravois19&58
VTD: 189212 Gravois2
VTD: 189213 Gravois20&38
VTD: 189214 Gravois21&22&39
VTD: 189215 Gravois24
VTD: 189216 Gravois12&25
VTD: 189218 Gravois27&52&55
VTD: 189220 Gravois3&7&8
VTD: 189221 Gravois33&42
VTD: 189222 Gravois35
VTD: 189224 Gravois4
VTD: 189225 Gravois40
VTD: 189230 Gravois6&54
VTD: 189233 Hadley1&2
VTD: 189234 Hadley10&11
VTD: 189235 Hadley12&17&18
VTD: 189236 Hadley13
VTD: 189237 Hadley14
VTD: 189238 Hadley15&16
VTD: 189239 Hadley19&31
VTD: 189240 Hadley20&22&23
VTD: 189241 Hadley25&27
VTD: 189242 Hadley28&29
VTD: 189243 Hadley3

VTD: 189244 Hadley30CLA2
VTD: 189245 Hadley32
VTD: 189246 Hadley33
VTD: 189247 Hadley34
VTD: 189248 Hadley35
VTD: 189249 Hadley4&21&24&26
VTD: 189250 Hadley5
VTD: 189253 Hadley9
VTD: 189275 Jefferson10
VTD: 189276 Jefferson11
VTD: 189277 Jefferson12&15
VTD: 189278 Jefferson13&20
VTD: 189279 Jefferson14&19
VTD: 189280 Jefferson16&49&50
VTD: 189281 Jefferson18&24
VTD: 189283 Jefferson21&29
VTD: 189284 Jefferson22&25&26
VTD: 189285 Jefferson23&47
VTD: 189286 Jefferson27&28
VTD: 189287 Jefferson30&42&51
VTD: 189288 Jefferson31&44
VTD: 189293 Jefferson41
VTD: 189294 Jefferson43
VTD: 189295 Jefferson45&46
VTD: 189296 Jefferson48
VTD: 189297 Jefferson52
VTD: 189298 Jefferson6
VTD: 189299 Jefferson7&17
VTD: 189300 Jefferson8
VTD: 189301 Jefferson9
VTD: 189326 Lemay1&5
VTD: 189327 Lemay10
VTD: 189328 Lemay11&16&20&38&43
VTD: 189329 Lemay12
VTD: 189330 Lemay13
VTD: 189331 Lemay14CON17
VTD: 189332 Lemay15
VTD: 189333 Lemay17&24&29&32&46
VTD: 189334 Lemay19
VTD: 189335 Lemay2&3&34
VTD: 189336 Lemay21&42&44&37
VTD: 189337 Lemay22&40
VTD: 189338 Lemay23&31
VTD: 189339 Lemay25&26&27&28
VTD: 18934 Bonhomme14&15&28&29
VTD: 189340 Lemay30&36
VTD: 189341 Lemay33&35
VTD: 189343 Lemay39&45
VTD: 189344 Lemay4&6&8&41
VTD: 189345 Lemay7
VTD: 189346 Lemay9
VTD: 18937 Bonhomme2 (part)

BLK: 186001005
VTD: 18939 Bonhomme24
VTD: 18945 Bonhomme4&48
VTD: 189540 Oakville1
VTD: 189541 Oakville10
VTD: 189542 Oakville11&22
VTD: 189543 Oakville12
VTD: 189544 Oakville15&28
VTD: 189545 Oakville17&20&27
VTD: 189546 Oakville18&25
VTD: 189547 Oakville19
VTD: 189548 Oakville2
VTD: 189549 Oakville21&26
VTD: 189550 Oakville3&16&23&30
VTD: 189551 Oakville31
VTD: 189552 Oakville4&14
VTD: 189553 Oakville5
VTD: 189554 Oakville6
VTD: 189555 Oakville7&13&32
VTD: 189556 Oakville8TSF40
VTD: 189557 Oakville9&24&29
VTD: 189624 TessonFerry24&29
VTD: 189627 TessonFerry30&31
VTD: 189628 TessonFerry32&39
VTD: 189629 TessonFerry33
VTD: 189634 TessonFerry41
VTD: 189646 University23&30
VTD: 189651 University31&32&41CLA5&56
VTD: 189652 University33&40
VTD: 18974 Clayton1&6
VTD: 18975 Clayton11
VTD: 18981 Clayton21&52
VTD: 18982 Clayton22&54
VTD: 18983 Clayton23&33
VTD: 18986 Clayton28&38&39
VTD: 18987 Clayton29&41&42
VTD: 18988 Clayton3&10
VTD: 18989 Clayton30&31
VTD: 18990 Clayton32&35 (part)
BLK: 174003010
VTD: 18991 Clayton4
VTD: 18992 Clayton43&46&48&49
VTD: 18993 Clayton50
VTD: 18994 Clayton51
VTD: 18995 Clayton53
VTD: 18998 Clayton8&44
VTD: 18999 Clayton9&17
St. Louis City (part)
VTD: 510100 Ward16Pct18
VTD: 510101 Ward16Pct2
VTD: 510102 Ward16Pct3
VTD: 510103 Ward16Pct4

VTD: 510104 Ward16Pct5
VTD: 510105 Ward16Pct6
VTD: 510106 Ward16Pct7
VTD: 510107 Ward16Pct8
VTD: 510108 Ward16Pct9
VTD: 510111 Ward17Pct11
VTD: 510112 Ward17Pct12
VTD: 510113 Ward17Pct13
VTD: 510116 Ward17Pct16
VTD: 51015 Ward10Pct1
VTD: 51016 Ward10Pct10
VTD: 51017 Ward10Pct11
VTD: 51018 Ward10Pct2
VTD: 51019 Ward10Pct3
VTD: 51020 Ward10Pct4
VTD: 510200 Ward23Pct1
VTD: 510201 Ward23Pct10
VTD: 510202 Ward23Pct11
VTD: 510203 Ward23Pct12
VTD: 510204 Ward23Pct13
VTD: 510205 Ward23Pct14
VTD: 510206 Ward23Pct15
VTD: 510207 Ward23Pct16
VTD: 510208 Ward23Pct2
VTD: 510209 Ward23Pct3
VTD: 51021 Ward10Pct5
VTD: 510210 Ward23Pct4
VTD: 510211 Ward23Pct5
VTD: 510212 Ward23Pct6
VTD: 510213 Ward23Pct7
VTD: 510214 Ward23Pct8
VTD: 510215 Ward23Pct9
VTD: 510216 Ward24Pct1
VTD: 510217 Ward24Pct10
VTD: 510218 Ward24Pct11
VTD: 510219 Ward24Pct12
VTD: 51022 Ward10Pct6
VTD: 510220 Ward24Pct13
VTD: 510221 Ward24Pct14
VTD: 510222 Ward24Pct15
VTD: 510223 Ward24Pct2
VTD: 510224 Ward24Pct3
VTD: 510225 Ward24Pct4
VTD: 510226 Ward24Pct5
VTD: 510227 Ward24Pct6
VTD: 510228 Ward24Pct7
VTD: 510229 Ward24Pct8
VTD: 51023 Ward10Pct7
VTD: 510230 Ward24Pct9
VTD: 510231 Ward25Pct1
VTD: 510232 Ward25Pct10
VTD: 510233 Ward25Pct11

VTD: 510234 Ward25Pct12
VTD: 510235 Ward25Pct13
VTD: 510236 Ward25Pct14
VTD: 510237 Ward25Pct15
VTD: 510238 Ward25Pct2
VTD: 510239 Ward25Pct3
VTD: 51024 Ward10Pct8
VTD: 510240 Ward25Pct4
VTD: 510241 Ward25Pct5
VTD: 510242 Ward25Pct6
VTD: 510243 Ward25Pct7
VTD: 510244 Ward25Pct8
VTD: 510245 Ward25Pct9
VTD: 51025 Ward10Pct9
VTD: 51026 Ward11Pct1
VTD: 51027 Ward11Pct10
VTD: 510270 Ward28Pct1
VTD: 510277 Ward28Pct2
VTD: 51028 Ward11Pct11
VTD: 51029 Ward11Pct12
VTD: 51030 Ward11Pct2
VTD: 51031 Ward11Pct3
VTD: 510319 Ward6Pct1
VTD: 51032 Ward11Pct4
VTD: 510322 Ward6Pct2
VTD: 510323 Ward6Pct3
VTD: 51033 Ward11Pct5
VTD: 510330 Ward7Pct1
VTD: 510332 Ward7Pct11
VTD: 510333 Ward7Pct12
VTD: 510334 Ward7Pct13
VTD: 510336 Ward7Pct2
VTD: 510337 Ward7Pct3
VTD: 510338 Ward7Pct4
VTD: 510339 Ward7Pct5
VTD: 51034 Ward11Pct6
VTD: 510340 Ward7Pct6
VTD: 510343 Ward7Pct9
VTD: 510344 Ward8Pct1
VTD: 510345 Ward8Pct10
VTD: 510346 Ward8Pct11
VTD: 510347 Ward8Pct12
VTD: 510348 Ward8Pct13
VTD: 510349 Ward8Pct14
VTD: 51035 Ward11Pct7
VTD: 510350 Ward8Pct15
VTD: 510351 Ward8Pct16
VTD: 510352 Ward8Pct2
VTD: 510353 Ward8Pct3
VTD: 510354 Ward8Pct4
VTD: 510355 Ward8Pct5
VTD: 510356 Ward8Pct6

VTD: 510357 Ward8Pct7
VTD: 510358 Ward8Pct8
VTD: 510359 Ward8Pct9
VTD: 51036 Ward11Pct8
VTD: 510360 Ward9Pct1
VTD: 510361 Ward9Pct10
VTD: 510362 Ward9Pct2
VTD: 510363 Ward9Pct3
VTD: 510364 Ward9Pct4
VTD: 510365 Ward9Pct5
VTD: 510366 Ward9Pct6
VTD: 510367 Ward9Pct7
VTD: 510368 Ward9Pct8
VTD: 510369 Ward9Pct9
VTD: 51037 Ward11Pct9
VTD: 510373 Ward12Pct4
VTD: 510374 Ward12Pct7
VTD: 510375 Ward12Pct12
VTD: 51038 Ward12Pct1
VTD: 51039 Ward12Pct10
VTD: 51040 Ward12Pct11
VTD: 51041 Ward12Pct13
VTD: 51042 Ward12Pct14
VTD: 51043 Ward12Pct15
VTD: 51044 Ward12Pct16
VTD: 51045 Ward12Pct2
VTD: 51046 Ward12Pct3
VTD: 51047 Ward12Pct5
VTD: 51048 Ward12Pct6
VTD: 51049 Ward12Pct8
VTD: 51050 Ward12Pct9
VTD: 51051 Ward13Pct1
VTD: 51052 Ward13Pct10
VTD: 51053 Ward13Pct11
VTD: 51054 Ward13Pct12
VTD: 51055 Ward13Pct13
VTD: 51056 Ward13Pct14
VTD: 51057 Ward13Pct2
VTD: 51058 Ward13Pct3
VTD: 51059 Ward13Pct4
VTD: 51060 Ward13Pct5
VTD: 51061 Ward13Pct6
VTD: 51062 Ward13Pct7
VTD: 51063 Ward13Pct8
VTD: 51064 Ward13Pct9
VTD: 51065 Ward14Pct1
VTD: 51066 Ward14Pct10
VTD: 51067 Ward14Pct11
VTD: 51068 Ward14Pct12
VTD: 51069 Ward14Pct13
VTD: 51070 Ward14Pct14
VTD: 51071 Ward14Pct2

VTD: 51072 Ward14Pct3
VTD: 51073 Ward14Pct4
VTD: 51074 Ward14Pct5
VTD: 51075 Ward14Pct6
VTD: 51076 Ward14Pct7
VTD: 51077 Ward14Pct8
VTD: 51078 Ward14Pct9
VTD: 51079 Ward15Pct1
VTD: 51080 Ward15Pct10
VTD: 51081 Ward15Pct11
VTD: 51082 Ward15Pct12
VTD: 51083 Ward15Pct2
VTD: 51084 Ward15Pct3
VTD: 51085 Ward15Pct4
VTD: 51086 Ward15Pct5
VTD: 51087 Ward15Pct6
VTD: 51088 Ward15Pct7
VTD: 51089 Ward15Pct8
VTD: 51090 Ward15Pct9
VTD: 51091 Ward16Pct1
VTD: 51092 Ward16Pct10
VTD: 51093 Ward16Pct11
VTD: 51094 Ward16Pct12
VTD: 51095 Ward16Pct13
VTD: 51096 Ward16Pct14
VTD: 51097 Ward16Pct15
VTD: 51098 Ward16Pct16
VTD: 51099 Ward16Pct17
Ste. Genevieve County

128.415. FOURTH CONGRESSIONAL DISTRICT (2000 CENSUS). — The fourth district shall be composed of the following:

Barton County
Bates County
Benton County
Camden County (part)
VTD: 02911 Greenvew
VTD: 02912 HaHaTonka
VTD: 02913 Hillhouse
VTD: 02914 HorseshoeBend
VTD: 02915 LinnCreek
VTD: 02916 MacksCreek
VTD: 02917 Montreal
VTD: 02918 OsageBeachNo.1
VTD: 02919 OsageBeachNo.2
VTD: 0292 Barnumton
VTD: 02921 Roach
VTD: 02922 Stoutland
VTD: 02923 Sunnyslope
VTD: 02924 SunriseBeachNo.1
VTD: 02925 SunriseBeachNo.2
VTD: 02926 SunriseBeachNo.3

VTD: 02928 WilsonBend
VTD: 0293 Branch
VTD: 0294 CamdentonNo.1 (part)
BLK: 502004059
BLK: 502004060
BLK: 502004076
BLK: 502004993
BLK: 505002000
BLK: 505002001
BLK: 505002031
BLK: 505002032
BLK: 505002033
BLK: 505002034
BLK: 505002035
BLK: 505002037
BLK: 505002038
BLK: 505002039
BLK: 505002040
BLK: 505002041
BLK: 505002999
BLK: 505003000
BLK: 505003001
BLK: 505003036
BLK: 505003037
BLK: 505003038
BLK: 506001122
BLK: 506001123
BLK: 506001130
BLK: 506001131
BLK: 506001132
BLK: 506001133
BLK: 506001134
BLK: 506001137
BLK: 506001138
BLK: 506001988
BLK: 506002006
BLK: 506002007
BLK: 506002008
BLK: 506002009
BLK: 506002010
BLK: 506002011
BLK: 506002023
BLK: 506002027
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BLK: 506002068
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BLK: 506002070
BLK: 506002072
BLK: 506002073
BLK: 506002078
BLK: 506002079
BLK: 506002084
BLK: 506002085
BLK: 508003039
BLK: 508003043
BLK: 508003088
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BLK: 508003099
BLK: 508003100
BLK: 508003101
BLK: 508003102
BLK: 508003103
BLK: 508003104
BLK: 508003105
BLK: 508003128
BLK: 508003129
BLK: 508003983
BLK: 508005001
BLK: 508005002
BLK: 508005003
BLK: 508005004
BLK: 508005011
BLK: 508005012
BLK: 508005013
BLK: 508005014
BLK: 508005015
BLK: 508005016
BLK: 508005017
BLK: 508005018
BLK: 508005019
BLK: 508005024
BLK: 508005028
BLK: 508005046
BLK: 508005999

VTD: 0295 CamdentonNo.2
VTD: 0296 CamdentonNo.3
VTD: 0297 CamdentonNo.4
VTD: 0298 ClimaxSprings
VTD: 0299 Decaturville
Cass County (part)
VTD: 03711 BigCreek24A
VTD: 03712 BigCreekRural24
VTD: 03713 CampBranchE.Lynn15
VTD: 03714 CampBranchGross14
VTD: 03715 ColdwaterDrexel6
VTD: 03716 Dayton2
VTD: 03717 Dayton2A
VTD: 03718 Dolan9
VTD: 03719 Everett5
VTD: 0372 Austin3
VTD: 03720 GrandRiverNW10
VTD: 03721 GrandRiverRural10A
VTD: 03722 GrandRiverSE12
VTD: 03723 GrandRiverSE13
VTD: 03724 GrandRiverSW11
VTD: 03725 IndexGardenCity16
VTD: 03726 IndexGunnCity17
VTD: 03727 Mt.PleasantPrairie26A
VTD: 03729 PeculiarRural21
VTD: 0373 Austin4
VTD: 03730 PleasantHill19
VTD: 03731 PleasantHill19A
VTD: 03732 PleasantHill20
VTD: 03733 PleasantHill20A
VTD: 03734 Polk18
VTD: 03742 Sherman1
VTD: 03743 Union23
VTD: 03744 WestDolan8
VTD: 03745 WestDolan8A
Cedar County
Cole County
Dade County
Dallas County
Henry County
Hickory County
Jackson County (part)
VTD: 095194 Sni-A-BarNo.10
VTD: 095195 Sni-A-BarNo.11
VTD: 095199 Sni-A-BarNo.14
VTD: 095200 Sni-A-BarNo.14A&16&75&75A&76&83 (part)
BLK: 141011000
BLK: 141011001
BLK: 141011002
BLK: 141011003
BLK: 141011004
BLK: 141011005

BLK: 141011007
BLK: 141011008
BLK: 141011009
BLK: 141011010
BLK: 141011011
BLK: 141011024
BLK: 141011025
BLK: 141011027
BLK: 141011028
BLK: 141011029
BLK: 141011030
BLK: 141011052
BLK: 141011053
BLK: 141011055
BLK: 141011056
BLK: 141011057
BLK: 141011058
BLK: 141011059
BLK: 141011060
BLK: 141011061
BLK: 141011062
BLK: 141011063
BLK: 141011064
BLK: 141011065
BLK: 141011066
BLK: 141011067
BLK: 141011068
BLK: 141011069
BLK: 141011076
BLK: 141051003
BLK: 149052013
BLK: 149052014
BLK: 149052017
BLK: 149052018
BLK: 149052019
BLK: 149052020
BLK: 149052021
BLK: 149052026
VTD: 095201 Sni-A-BarNo.15&15A (part)
BLK: 141011017
BLK: 141011018
BLK: 141011031
BLK: 141011032
BLK: 141011033
BLK: 141011034
BLK: 141011035
BLK: 141011036
BLK: 141011037
BLK: 141011038
BLK: 141011039
BLK: 141011040
BLK: 141011041

BLK: 141011042
BLK: 141011043
BLK: 141011045
BLK: 141011048
BLK: 141011049
BLK: 141011050
BLK: 141011051
BLK: 141011054
BLK: 141011077
BLK: 141011078
VTD: 095224 Sni-A-BarNo.40&40A&41&42&47&48&98 (part)
BLK: 140011000
BLK: 140011001
BLK: 140011002
BLK: 140011003
BLK: 140011004
BLK: 140011005
BLK: 140011006
BLK: 140011007
BLK: 140011008
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BLK: 140011021
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BLK: 140011024
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BLK: 140011028
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BLK: 140012107
BLK: 140021002
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BLK: 141011075
BLK: 141051000
BLK: 141051001
BLK: 141051002
BLK: 141051004
BLK: 141051009
BLK: 141051010
BLK: 141051011
BLK: 141051012
BLK: 141051013
BLK: 141059000
BLK: 141059022
VTD: 095228 Sni-A-BarNo.49&52&89&90 (part)
BLK: 140032017
BLK: 140032020
BLK: 140032021
VTD: 095230 Sni-A-BarNo.50&53&54&56&92
VTD: 095231 Sni-A-BarNo.51&51A&94A
VTD: 095232 Sni-A-BarNo.55

VTD: 095233 Sni-A-BarNo.57
VTD: 095241 Sni-A-BarNo.86&87&88&91 (part)
BLK: 140012089
BLK: 140012090
BLK: 140021000
BLK: 140021003
BLK: 140021004
BLK: 140021005
BLK: 140021006
BLK: 140021007
BLK: 140021008
BLK: 140021009
BLK: 140021010
BLK: 140021011
BLK: 140021012
BLK: 140021013
BLK: 140021014
BLK: 140021015
BLK: 140022006
BLK: 140022007
BLK: 140022008
BLK: 140022009
BLK: 140022010
BLK: 140022011
BLK: 140022017
BLK: 140023000
BLK: 140023001
BLK: 140023002
BLK: 140023003
BLK: 140023007
BLK: 140023008
BLK: 140031001
BLK: 140031002
BLK: 140031003
BLK: 140031004
BLK: 140031007
BLK: 140031008
BLK: 140031009
BLK: 140031042
BLK: 141066000
BLK: 141066024
BLK: 141066025
BLK: 141066026
BLK: 141066039
BLK: 141066040
BLK: 141066041
BLK: 141066042
VTD: 095243 Sni-A-BarNo.94&94B&95&96
Johnson County
Laclede County
Lafayette County
Moniteau County

Morgan County
Pettis County
Polk County (part)
VTD: 16710 Jefferson
VTD: 16711 Johnson
VTD: 16714 MadisonEast
VTD: 16715 MadisonWest
VTD: 16720 McKinley
VTD: 16722 Union
VTD: 1674 Campbell
VTD: 1675 Cliquot
VTD: 1676 Flemington
VTD: 1677 GreeneNorth
VTD: 1678 GreeneSouth
VTD: 1679 Jackson (part)
BLK: 604006002
BLK: 604006027
BLK: 604006028
BLK: 604006034
BLK: 604006035
BLK: 604006036
BLK: 604006044
BLK: 604006045
BLK: 604006048
BLK: 604006052
BLK: 604006055
BLK: 604006056
BLK: 604006057
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BLK: 604006103
Pulaski County
Ray County
Saline County
St. Clair County
Vernon County
Webster County

128.420. FIFTH CONGRESSIONAL DISTRICT (2000 CENSUS). — The fifth district shall be composed of the following:

Cass County (part)
VTD: 03710 BeltonSW27A
VTD: 03728 Mt.PleasantRural26
VTD: 03735 Raymore25A
VTD: 03736 Raymore25B
VTD: 03737 Raymore25C
VTD: 03738 Raymore25D
VTD: 03739 Raymore25E
VTD: 0374 BeltonNE29
VTD: 03740 Raymore25F
VTD: 03741 RaymoreRural25
VTD: 03746 WestPeculiar22A
VTD: 03747 WestPeculiarRural22
VTD: 0375 BeltonNW28
VTD: 0376 BeltonNW28A
VTD: 0377 BeltonSE30
VTD: 0378 BeltonSE30A
VTD: 0379 BeltonSW27
Jackson County (part)
VTD: 09510 BlueSub1No.3&4
VTD: 095100 BlueSub8No.9
VTD: 095101 BlueSub8No.9A
VTD: 095102 BrookingNo.1
VTD: 095103 BrookingNo.10
VTD: 095104 BrookingNo.11
VTD: 095105 BrookingNo.12
VTD: 095106 BrookingNo.13

VTD: 095107 BrookingNo.14
VTD: 095108 BrookingNo.15
VTD: 095109 BrookingNo.16
VTD: 09511 BlueSub1No.5
VTD: 095110 BrookingNo.17
VTD: 095111 BrookingNo.18
VTD: 095112 BrookingNo.19
VTD: 095113 BrookingNo.2&6
VTD: 095114 BrookingNo.20
VTD: 095115 BrookingNo.21
VTD: 095116 BrookingNo.22
VTD: 095117 BrookingNo.23
VTD: 095118 BrookingNo.24
VTD: 095119 BrookingNo.25
VTD: 09512 BlueSub1No.6
VTD: 095120 BrookingNo.26&28
VTD: 095121 BrookingNo.27&29
VTD: 095122 BrookingNo.3
VTD: 095123 BrookingNo.4
VTD: 095124 BrookingNo.5
VTD: 095125 BrookingNo.7
VTD: 095126 BrookingNo.8
VTD: 095127 BrookingNo.9
VTD: 095128 BrookingNo.9A
VTD: 09513 BlueSub1No.7
VTD: 095130 FortOsageNo&1&2&3 (part)
BLK: 114049000
BLK: 114049001
BLK: 114049002
BLK: 114049032
BLK: 114049033
BLK: 114049034
BLK: 114049039
BLK: 114049040
BLK: 114049041
BLK: 114049043
BLK: 114049045
BLK: 114049046
BLK: 114049047
BLK: 148019000
BLK: 148019001
BLK: 148019002
BLK: 148019003
VTD: 095138 PrairieNo.1
VTD: 095139 PrairieNo.11&12
VTD: 09514 BlueSub1No.8&14&16
VTD: 095140 PrairieNo.13
VTD: 095141 PrairieNo.13A
VTD: 095142 PrairieNo.14
VTD: 095143 PrairieNo.15
VTD: 095144 PrairieNo.16
VTD: 095145 PrairieNo.17

VTD: 095146 PrairieNo.19&20
VTD: 095147 PrairieNo.2
VTD: 095148 PrairieNo.21
VTD: 095149 PrairieNo.22
VTD: 09515 BlueSub1No.9
VTD: 095150 PrairieNo.23
VTD: 095151 PrairieNo.24&24A
VTD: 095152 PrairieNo.25
VTD: 095153 PrairieNo.25A&68
VTD: 095154 PrairieNo.26&27&78
VTD: 095155 PrairieNo.3
VTD: 095156 PrairieNo.30
VTD: 095158 PrairieNo.31
VTD: 095159 PrairieNo.32&33
VTD: 09516 BlueSub2No.1
VTD: 095160 PrairieNo.35&79
VTD: 095161 PrairieNo.37
VTD: 095162 PrairieNo.38
VTD: 095163 PrairieNo.39
VTD: 095164 PrairieNo.4
VTD: 095165 PrairieNo.40
VTD: 095167 PrairieNo.44
VTD: 095168 PrairieNo.45
VTD: 095169 PrairieNo.46&67
VTD: 09517 BlueSub2No.10
VTD: 095170 PrairieNo.47
VTD: 095171 PrairieNo.48
VTD: 095172 PrairieNo.49
VTD: 095173 PrairieNo.5
VTD: 095174 PrairieNo.50
VTD: 095175 PrairieNo.50A
VTD: 095176 PrairieNo.50B
VTD: 095177 PrairieNo.51
VTD: 095178 PrairieNo.52
VTD: 095179 PrairieNo.53
VTD: 09518 BlueSub2No.2
VTD: 095180 PrairieNo.54
VTD: 095181 PrairieNo.55&56
VTD: 095182 PrairieNo.57&58&59&73&75
VTD: 095183 PrairieNo.6
VTD: 095184 PrairieNo.66
VTD: 095185 PrairieNo.66A
VTD: 095186 PrairieNo.69
VTD: 095187 PrairieNo.7
VTD: 095188 PrairieNo.70
VTD: 095189 PrairieNo.8
VTD: 09519 BlueSub2No.3
VTD: 095190 PrairieNo.8A
VTD: 095191 PrairieNo.9&63&64&77
VTD: 095192 Sni-A-BarNo1.
VTD: 0952 KCWd12Pct4
VTD: 09520 BlueSub2No.4

VTD: 09521 BlueSub2No.5
VTD: 09522 BlueSub2No.6
VTD: 09523 BlueSub2No.7
VTD: 09524 BlueSub2No.8
VTD: 095244 VanBurenNo.1&2
VTD: 095245 VanBurenNo.16&19&19A&20&21
VTD: 095246 VanBurenNo.26&27&28&29&30&31&32&33
VTD: 095247 VanBurenNo.34&35&36&37
VTD: 095248 VanBurenNo.38&39&40
VTD: 095249 VanBurenNo.41&42
VTD: 09525 BlueSub2No.9
VTD: 095250 VanBurenNo.5
VTD: 095251 VanBurenNo.6&7
VTD: 095252 VanBurenNo.8
VTD: 095253 VanBurenNo.9&10&11&17&18
VTD: 095254 WashingtonNo.1
VTD: 095255 WashingtonNo.10
VTD: 095256 WashingtonNo.11
VTD: 095257 WashingtonNo.12
VTD: 095258 WashingtonNo.13
VTD: 095259 WashingtonNo.14
VTD: 09526 BlueSub3No.1
VTD: 095260 WashingtonNo.15
VTD: 095261 WashingtonNo.16
VTD: 095262 WashingtonNo.17
VTD: 095263 WashingtonNo.2
VTD: 095264 WashingtonNo.3
VTD: 095265 WashingtonNo.4
VTD: 095266 WashingtonNo.5
VTD: 095267 WashingtonNo.6
VTD: 095268 WashingtonNo.7
VTD: 095269 WashingtonNo.8
VTD: 09527 BlueSub3No.12&13 (part)
BLK: 151009004
VTD: 095270 WashingtonNo.9
VTD: 095271 KCWd1Pct1
VTD: 095273 KCWd1Pct2
VTD: 095274 KCWd1Pct3
VTD: 095275 KCWd1Pct4
VTD: 095276 KCWd1Pct5
VTD: 095277 KCWd1Pct6&7
VTD: 095279 KCWd1Pct8
VTD: 09528 BlueSub3No.14
VTD: 095280 KCWd1Pct9&10
VTD: 095281 KCWd10Pct1&2
VTD: 095282 KCWd10Pct10&11
VTD: 095285 KCWd10Pct3
VTD: 095286 KCWd10Pct4
VTD: 095287 KCWd10Pct5&6
VTD: 095289 KCWd10Pct7
VTD: 09529 BlueSub3No.15
VTD: 095290 KCWd10Pct8&9

VTD: 095292 KCWd11Pct1
VTD: 095293 KCWd11Pct2
VTD: 095294 KCWd11Pct3&4
VTD: 095297 KCWd11Pct5&6
VTD: 095298 KCWd11Pct7
VTD: 095299 KCWd11Pct8
VTD: 0953 BlueSub1No.1
VTD: 09530 BlueSub3No.15A
VTD: 095300 KCWd11Pct9
VTD: 095301 KCWd12Pct1
VTD: 095302 KCWd12Pct10
VTD: 095304 KCWd12Pct2
VTD: 095305 KCWd12Pct3
VTD: 095306 KCWd12Pct5&6
VTD: 095308 KCWd12Pct7
VTD: 095309 KCWd12Pct8
VTD: 09531 BlueSub3No.16
VTD: 095310 KCWd12Pct9&11
VTD: 095311 KCWd13Pct1
VTD: 095312 KCWd13Pct2
VTD: 095313 KCWd13Pct3
VTD: 095314 KCWd13Pct4
VTD: 095315 KCWd13Pct5
VTD: 095316 KCWd13Pct6
VTD: 095317 KCWd14Pct1&7
VTD: 095319 KCWd14Pct11
VTD: 09532 BlueSub3No.2
VTD: 095320 KCWd14Pct12&13
VTD: 095322 KCWd14Pct2
VTD: 095323 KCWd14Pct3
VTD: 095324 KCWd14Pct4&5
VTD: 095326 KCWd14Pct6
VTD: 095328 KCWd14Pct8&9&10
VTD: 09533 BlueSub3No.3
VTD: 095330 KCWd15Pct1&4
VTD: 095331 KCWd15Pct10
VTD: 095332 KCWd15Pct11&12
VTD: 095334 KCWd15Pct13
VTD: 095335 KCWd15Pct14&15
VTD: 095337 KCWd15Pct2
VTD: 095338 KCWd15Pct3
VTD: 09534 BlueSub3No.4
VTD: 095340 KCWd15Pct5&6&7
VTD: 095344 KCWd15Pct8&9
VTD: 095345 KCWd16Pct1&2&3&4
VTD: 095346 KCWd16Pct10
VTD: 095347 KCWd16Pct11&12&14&15
VTD: 095349 KCWd16Pct13
VTD: 09535 BlueSub3No.5
VTD: 095352 KCWd16Pct16&17
VTD: 095357 KCWd16Pct5&8
VTD: 095358 KCWd16Pct6&7

VTD: 09536 BlueSub3No.5A
VTD: 095361 KCWd16Pct9
VTD: 095362 KCWd17Pct1&2
VTD: 095365 KCWd17Pct12&13
VTD: 095367 KCWd17Pct14
VTD: 095369 KCWd17Pct3&4&5
VTD: 09537 BlueSub3No.8
VTD: 095372 KCWd17Pct6
VTD: 095373 KCWd17Pct7
VTD: 095374 KCWd17Pct8&11
VTD: 095375 KCWd17Pct9&10
VTD: 095377 KCWd18Pct10
VTD: 095378 KCWd18Pct12
VTD: 095379 KCWd18Pct13
VTD: 09538 BlueSub3No.9
VTD: 095380 KCWd18Pct1&2
VTD: 095381 KCWd18Pct3
VTD: 095382 KCWd18Pct4
VTD: 095383 KCWd18Pct5
VTD: 095384 KCWd18Pct6&7
VTD: 095386 KCWd18Pct8
VTD: 095387 KCWd18Pct9
VTD: 095388 KCWd19Pct1&2
VTD: 095389 KCWd19Pct10
VTD: 09539 BlueSub4No.1
VTD: 095390 KCWd19Pct11
VTD: 095391 KCWd19Pct13
VTD: 095392 KCWd19Pct14
VTD: 095393 KCWd19Pct15
VTD: 095395 KCWd19Pct3&6
VTD: 095396 KCWd19Pct4
VTD: 095399 KCWd19Pct5&7
VTD: 0954 BlueSub1No.10
VTD: 09540 BlueSub4No.10
VTD: 095400 KCWd19Pct8
VTD: 095401 KCWd19Pct9
VTD: 095402 KCWd2Pct1&2
VTD: 095403 KCWd2Pct10
VTD: 095404 KCWd2Pct11
VTD: 095405 KCWd2Pct12
VTD: 095408 KCWd2Pct9&15
VTD: 09541 BlueSub4No.11
VTD: 095410 KCWd2Pct3
VTD: 095411 KCWd2Pct4&14
VTD: 095412 KCWd2Pct5&6
VTD: 095414 KCWd2Pct7&8
VTD: 095417 KCWd20Pct1
VTD: 095418 KCWd20Pct2
VTD: 095419 KCWd20Pct3&4&5
VTD: 09542 BlueSub4No.12
VTD: 095422 KCWd20Pct6
VTD: 095423 KCWd20Pct7

VTd: 095424 KCWd20Pct8
VTd: 095425 KCWd20Pct9
VTd: 095426 KCWd22Pct1&2
VTd: 095427 KCWd22Pct10
VTd: 095429 KCWd22Pct11&12
VTd: 09543 BlueSub4No.2
VTd: 095431 KCWd22Pct3
VTd: 095432 KCWd22Pct4
VTd: 095434 KCWd22Pct5&6
VTd: 095435 KCWd22Pct7
VTd: 095436 KCWd22Pct8&9
VTd: 095438 KCWd23Pct1&2
VTd: 09544 BlueSub4No.3
VTd: 095440 KCWd23Pct11&12
VTd: 095442 KCWd23Pct13
VTd: 095443 KCWd23Pct14
VTd: 095445 KCWd23Pct3
VTd: 095446 KCWd23Pct4
VTd: 095447 KCWd23Pct5
VTd: 095448 KCWd23Pct6
VTd: 095449 KCWd23Pct7&9&10
VTd: 09545 BlueSub4No.5
VTd: 095450 KCWd23Pct8
VTd: 095452 KCWd24Pct1&3
VTd: 095453 KCWd24Pct10
VTd: 095454 KCWd24Pct12
VTd: 095455 KCWd24Pct13
VTd: 095456 KCWd24Pct15
VTd: 095457 KCWd24Pct16
VTd: 095458 KCWd24Pct17
VTd: 095459 KCWd24Pct18
VTd: 09546 BlueSub4No.6
VTd: 095460 KCWd24Pct19
VTd: 095461 KCWd24Pct2
VTd: 095462 KCWd24Pct20
VTd: 095463 KCWd24Pct21
VTd: 095464 KCWd24Pct22&23
VTd: 095467 KCWd24Pct4&5&6
VTd: 09547 BlueSub4No.7
VTd: 095470 KCWd24Pct7
VTd: 095471 KCWd24Pct8
VTd: 095472 KCWd24Pct9
VTd: 095473 KCWd25Pct1
VTd: 095474 KCWd25Pct10
VTd: 095475 KCWd25Pct11
VTd: 095476 KCWd25Pct12
VTd: 095477 KCWd25Pct2
VTd: 095478 KCWd25Pct3&4
VTd: 09548 BlueSub4No.8
VTd: 095480 KCWd25Pct5
VTd: 095481 KCWd25Pct6
VTd: 095482 KCWd25Pct7

VTD: 095483 KCWd25Pct8
VTD: 095484 KCWd25Pct9
VTD: 095485 KCWd26Pct1&2&3
VTD: 095486 KCWd26Pct10
VTD: 095487 KCWd26Pct11&12
VTD: 09549 BlueSub4No.9
VTD: 095491 KCWd26Pct4
VTD: 095492 KCWd26Pct5&6
VTD: 095494 KCWd26Pct7&8
VTD: 095496 KCWd26Pct9
VTD: 095497 KCWd3Pct1
VTD: 0955 BlueSub1No.11
VTD: 09550 BlueSub5No.1
VTD: 095500 KCWd3Pct12
VTD: 095502 KCWd3Pct2
VTD: 095503 KCWd3Pct3
VTD: 095504 KCWd3Pct4
VTD: 095505 KCWd3Pct5&6&7
VTD: 095508 KCWd3Pct8
VTD: 095509 KCWd3Pct9&10&11&13
VTD: 09551 BlueSub5No.10
VTD: 095510 KCWd4Pct1&2
VTD: 095512 KCWd4Pct3&4
VTD: 095514 KCWd4Pct5
VTD: 095515 KCWd4Pct6
VTD: 095516 KCWd4Pct7
VTD: 095517 KCWd4Pct8
VTD: 095518 KCWd4Pct9
VTD: 09552 BlueSub5No.11
VTD: 095520 KCWd5Pct10
VTD: 095521 KCWd5Pct1&2
VTD: 095522 KCWd5Pct4
VTD: 095523 KCWd5Pct5&6
VTD: 095525 KCWd5Pct7&8
VTD: 095527 KCWd5Pct9
VTD: 095528 KCWd5Precinct3
VTD: 095529 KCWd6Pct1
VTD: 09553 BlueSub5No.12
VTD: 095530 KCWd6Pct9&10&11
VTD: 095532 KCWd6Pct12
VTD: 095533 KCWd6Pct3&13
VTD: 095534 KCWd6Pct14
VTD: 095535 KCWd6Pct2&4
VTD: 095538 KCWd6Pct5
VTD: 095539 KCWd6Pct6
VTD: 09554 BlueSub5No.13
VTD: 095540 KCWd6Pct7
VTD: 095541 KCWd6Pct8
VTD: 095543 KCWd7Pct1&2&7&8
VTD: 095545 KCWd7Pct9&10&11
VTD: 095546 KCWd7Pct12
VTD: 095547 KCWd7Pct13

VTD: 095548 KCWd7Pct14
VTD: 095549 KCWd7Pct15
VTD: 09555 BlueSub5No.2
VTD: 095551 KCWd7Pct3
VTD: 095552 KCWd7Pct4
VTD: 095553 KCWd7Pct5&6
VTD: 095558 KCWd8Pct1&2&3
VTD: 095559 KCWd8Pct10&11
VTD: 09556 BlueSub5No.3
VTD: 095563 KCWd8Pct4
VTD: 095564 KCWd8Pct5
VTD: 095565 KCWd8Pct6
VTD: 095567 KCWd8Pct7&8
VTD: 095568 KCWd8Pct9
VTD: 095569 KCWd9Pct1
VTD: 09557 BlueSub5No.4
VTD: 095571 KCWd9Pct11
VTD: 095572 KCWd9Pct12
VTD: 095573 KCWd9Pct2
VTD: 095574 KCWd9Pct3
VTD: 095575 KCWd9Pct4&5
VTD: 095577 KCWd9Pct6&7
VTD: 095579 KCWd9Pct8&9&10
VTD: 09558 BlueSub5No.5
VTD: 09559 BlueSub5No.6
VTD: 0956 BlueSub1No.12
VTD: 09560 BlueSub5No.7
VTD: 09561 BlueSub5No.8
VTD: 09562 BlueSub5No.9
VTD: 09563 BlueSub6No.1
VTD: 09564 BlueSub6No.10
VTD: 09565 BlueSub6No.11
VTD: 09566 BlueSub6No.12
VTD: 09567 BlueSub6No.2
VTD: 09568 BlueSub6No.3
VTD: 09569 BlueSub6No.4
VTD: 0957 BlueSub1No.13
VTD: 09570 BlueSub6No.5
VTD: 09571 BlueSub6No.6
VTD: 09572 BlueSub6No.8
VTD: 09573 BlueSub6No.8A
VTD: 09574 BlueSub6No.9
VTD: 09575 BlueSub7No.1
VTD: 09576 BlueSub7No.10
VTD: 09577 BlueSub7No.11
VTD: 09578 BlueSub7No.12
VTD: 09579 BlueSub7No.13
VTD: 0958 BlueSub1No.18
VTD: 09580 BlueSub7No.14
VTD: 09581 BlueSub7No.2
VTD: 09582 BlueSub7No.3
VTD: 09583 BlueSub7No.4

VTD: 09584 BlueSub7No.5
VTD: 09585 BlueSub7No.6
VTD: 09586 BlueSub7No.7
VTD: 09587 BlueSub7No.8
VTD: 09588 BlueSub7No.9
VTD: 09589 BlueSub8No.1
VTD: 0959 BlueSub1No.2
VTD: 09590 BlueSub8No.10
VTD: 09591 BlueSub8No.11
VTD: 09592 BlueSub8No.12
VTD: 09593 BlueSub8No.2
VTD: 09594 BlueSub8No.3
VTD: 09595 BlueSub8No.4
VTD: 09596 BlueSub8No.5
VTD: 09597 BlueSub8No.6
VTD: 09598 BlueSub8No.7
VTD: 09599 BlueSub8No.8

128.425. SIXTH CONGRESSIONAL DISTRICT (2000 CENSUS). — The sixth district shall be composed of the following:

Andrew County
Atchison County
Buchanan County
Caldwell County
Carroll County
Chariton County
Clay County
Clinton County
Cooper County
Daviess County
DeKalb County
Gentry County
Grundy County
Harrison County
Holt County
Howard County
Jackson County (part)
VTD: 095129 FortOsageNo17&21
VTD: 095130 FortOsageNo&1&2&3 (part)
BLK: 148019004
BLK: 148019005
BLK: 149011000
BLK: 149011001
BLK: 149011002
BLK: 149011003
BLK: 149011004
BLK: 149011005
BLK: 149011006
BLK: 149011007
BLK: 149011008
BLK: 149011009
BLK: 149011010

BLK: 149011011
BLK: 149011012
BLK: 149011013
BLK: 149011014
BLK: 149011015
BLK: 149011016
BLK: 149011017
BLK: 149011018
BLK: 149011019
BLK: 149011020
BLK: 149011021
BLK: 149011022
BLK: 149011023
BLK: 149011024
BLK: 149012000
BLK: 149012001
BLK: 149012002
BLK: 149012003
BLK: 149012004
BLK: 149012005
BLK: 149012009
BLK: 149012010
BLK: 149012011
BLK: 149012012
VTD: 095131 FortOsageNo.11&12&29
VTD: 095132 FortOsageNo.18&19&20&22&23
VTD: 095133 FortOsageNo.4
VTD: 095134 FortOsageNo.5
VTD: 095135 FortOsageNo.6
VTD: 095136 FortOsageNo.7&8
VTD: 095137 FortOsageNo.9&10&15
VTD: 095157 PrairieNo.30A
VTD: 095166 PrairieNo.41&80&81
VTD: 095193 Sni-A-BarNo.&.37&38&39
VTD: 095196 Sni-A-BarNo.11A
VTD: 095197 Sni-A-BarNo.12&13
VTD: 095198 Sni-A-BarNo.13A&45&80&81&82
VTD: 095200 Sni-A-BarNo.14A&16&75&75A&76&83 (part)
BLK: 141051006
VTD: 095201 Sni-A-BarNo.15&15A (part)
BLK: 141011044
BLK: 141011046
BLK: 141011047
BLK: 141051007
BLK: 141051008
VTD: 095202 Sni-A-BarNo.17&69
VTD: 095203 Sni-A-BarNo.19
VTD: 095204 Sni-A-BarNo.1A&18&68
VTD: 095205 Sni-A-BarNo.2
VTD: 095206 Sni-A-BarNo.20&70A
VTD: 095207 Sni-A-BarNo.21&64&70&71
VTD: 095208 Sni-A-BarNo.22

VTD: 095209 Sni-A-BarNo.23&24
VTD: 095210 Sni-A-BarNo.25&26
VTD: 095211 Sni-A-BarNo.27
VTD: 095212 Sni-A-BarNo.28&72
VTD: 095213 Sni-A-BarNo.29&73
VTD: 095214 Sni-A-BarNo.3&3A&4
VTD: 095215 Sni-A-BarNo.30
VTD: 095216 Sni-A-BarNo.30A
VTD: 095217 Sni-A-BarNo.31
VTD: 095218 Sni-A-BarNo.31A
VTD: 095219 Sni-A-BarNo.32
VTD: 095220 Sni-A-BarNo.33
VTD: 095221 Sni-A-BarNo.34&34A&74
VTD: 095222 Sni-A-BarNo.35&36
VTD: 095223 Sni-A-BarNo.35A
VTD: 095224 Sni-A-BarNo.40&40A&41&42&47&48&98 (part)
BLK: 141051005
VTD: 095226 Sni-A-BarNo.44
VTD: 095228 Sni-A-BarNo.49&52&89&90 (part)
BLK: 140032000
BLK: 140032001
BLK: 140032002
BLK: 140032003
BLK: 140032004
BLK: 140032005
BLK: 140032006
BLK: 140032007
BLK: 140032008
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BLK: 140032016
BLK: 140032018
BLK: 140032019
BLK: 149031019
BLK: 149032000
BLK: 149032001
BLK: 149032002
BLK: 149032003
BLK: 149032004
BLK: 149032005
BLK: 149032042
BLK: 149032048
BLK: 149032051
BLK: 149032053
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BLK: 149032057
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BLK: 149032064
BLK: 149032065
BLK: 149032074
BLK: 149032075
BLK: 149032076
BLK: 149032088
BLK: 149032089
BLK: 149032090
VTD: 095229 Sni-A-BarNo.5
VTD: 095234 Sni-A-BarNo.58
VTD: 095235 Sni-A-BarNo.59&60
VTD: 095236 Sni-A-BarNo.5A&61&62&62A&97
VTD: 095237 Sni-A-BarNo.6&6A&6B&7&65&66&99
VTD: 095238 Sni-A-BarNo.40B&67&77&78&78B&79&84&84A
VTD: 095240 Sni-A-BarNo.8
VTD: 095241 Sni-A-BarNo.86&87&88&91 (part)
BLK: 140021001
VTD: 095242 Sni-A-BarNo.9
VTD: 09527 BlueSub3No.12&13 (part)
BLK: 150005000
BLK: 150005001
BLK: 150005003
BLK: 150005004
BLK: 150005005
BLK: 150005006
BLK: 150005007
BLK: 150005998
BLK: 150005999
BLK: 150006000
BLK: 150006001
BLK: 150006002
BLK: 150006003
BLK: 150006004
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BLK: 150006006
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BLK: 150006008
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BLK: 150006011
BLK: 150006012
BLK: 150006013
BLK: 150006014
BLK: 150006021
BLK: 150006022

BLK: 150006023
BLK: 150006024
BLK: 150006025
VTD: 095581 FortOsageNo.14&26&28
Linn County
Livingston County
Mercer County
Nodaway County
Platte County
Putnam County
Schuyler County
Sullivan County
Worth County

128.430. SEVENTH CONGRESSIONAL DISTRICT (2000 CENSUS). — The seventh district shall be composed of the following:

Barry County
Christian County
Greene County
Jasper County
Lawrence County
McDonald County
Newton County
Polk County (part)
VTD: 16712 LooneyEast
VTD: 16713 LooneyWest
VTD: 16716 MarionNortheast
VTD: 16717 MarionNorthwest
VTD: 16718 MarionSoutheast
VTD: 16719 MarionSouthwest
VTD: 1672 BentonNorth
VTD: 16721 Mooney
VTD: 16723 Wishart
VTD: 1673 BentonSouth
VTD: 1679 Jackson (part)
BLK: 604002092
BLK: 604002093
BLK: 604002096
BLK: 604002097
BLK: 604002100
BLK: 604002101
BLK: 604002102
BLK: 604006000
BLK: 604006001
BLK: 604006003
BLK: 604006047
BLK: 604006049
BLK: 604006050
BLK: 604006051
BLK: 604006053
BLK: 604006054
BLK: 604006091

BLK: 604006092
BLK: 604006098
BLK: 604006099
BLK: 604006101
BLK: 604006102
BLK: 604006104
BLK: 604006105
BLK: 604006106
BLK: 604006107
BLK: 604006108
BLK: 604006109
BLK: 604006110
BLK: 604006111
BLK: 604006112
BLK: 604006113
BLK: 604006114
BLK: 604006115
BLK: 604006116
BLK: 604006117
BLK: 604006118
BLK: 604006119
BLK: 604006120
BLK: 604006121
BLK: 604006122
BLK: 604006123
BLK: 604006124
BLK: 604006125
BLK: 604006126
BLK: 604006127
BLK: 604006128
BLK: 604006129
Stone County
Taney County (part)
VTD: 21311 ForsythWard2 (part)
BLK: 802003129
BLK: 803003044
BLK: 803003045
BLK: 803003046
BLK: 803003047
BLK: 803003048
BLK: 803003050
BLK: 803003051
VTD: 21312 HollisterWard1
VTD: 21313 HollisterWard2
VTD: 21314 HollisterWard3
VTD: 21315 Kirbyville
VTD: 21317 MerriamWoods (part)
BLK: 802002043
BLK: 802003029
BLK: 802003030
BLK: 802003032
BLK: 802003033

BLK: 802003034
BLK: 802003035
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BLK: 802003086
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BLK: 802003090
BLK: 802003091
BLK: 802003092
BLK: 802003093
BLK: 802003094
BLK: 802003095
BLK: 802003096
BLK: 802003097
BLK: 802003098
BLK: 802003099
BLK: 802003101
BLK: 802003128
BLK: 802003131
BLK: 802003133
BLK: 802003134
BLK: 802003137
BLK: 802003138
BLK: 802003139
BLK: 802003140
BLK: 802003141
BLK: 802003142
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BLK: 802003144
BLK: 802003145
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BLK: 802003147
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BLK: 802003149
BLK: 802005001
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BLK: 802005101
BLK: 802005102
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BLK: 802005106
BLK: 802005107
BLK: 802005108
BLK: 802005109
BLK: 802005110
BLK: 802005111
BLK: 802005112
BLK: 802005113
BLK: 802005114
BLK: 802005115
BLK: 802005116
BLK: 802005117
BLK: 802005118
BLK: 802005119
BLK: 802005120
BLK: 802005124
VTD: 21318 Mincy
VTD: 2132 BostonCenter
VTD: 21320 RockawayBeachWard1
VTD: 21321 RockawayBeachWard2 (part)
BLK: 802003026
BLK: 802003027
BLK: 802003068
BLK: 802003069
BLK: 802003070
BLK: 802003071
BLK: 802003100
BLK: 802003127
BLK: 802003130
BLK: 802003132
BLK: 802003135
BLK: 802003136
BLK: 802005000
BLK: 802005002
BLK: 802005003
BLK: 802005004
BLK: 802005005
BLK: 802005052
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BLK: 802005066

BLK: 802005067
BLK: 802005068
BLK: 802005069
BLK: 802005070
BLK: 802005086
BLK: 802005998
BLK: 802005999
VTD: 21323 WalnutShade
VTD: 2134 Branson1&1A
VTD: 2135 Branson
VTD: 2136 Branson3&Tablerock

128.435. EIGHTH CONGRESSIONAL DISTRICT (2000 CENSUS). — The eighth district shall be composed of the following:

Bollinger County
Butler County
Cape Girardeau County
Carter County
Dent County
Douglas County
Dunklin County
Howell County
Iron County
Madison County
Mississippi County
New Madrid County
Oregon County
Ozark County
Pemiscot County
Perry County
Phelps County
Reynolds County
Ripley County
Scott County
Shannon County
St. Francois County
Stoddard County
Taney County (part)
VTD: 21310 ForsythWard1
VTD: 21311 ForsythWard2 (part)
BLK: 802003000
BLK: 802003001
BLK: 802003002
BLK: 802003003
BLK: 802003004
BLK: 802003005
BLK: 802003006
BLK: 802003007
BLK: 802003008
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BLK: 802003010
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BLK: 802003058
BLK: 802003061
BLK: 802003062
BLK: 802003063
BLK: 802003106
BLK: 802003107
BLK: 802003108
BLK: 802003109
BLK: 802003110
BLK: 802003111
BLK: 802003112
BLK: 802003113
BLK: 802003114
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BLK: 802003116
BLK: 802003117
BLK: 802003118
BLK: 802003119
BLK: 802003120
BLK: 802003121
BLK: 802003122
BLK: 802003123
BLK: 802003124
BLK: 802003150
BLK: 802003151
BLK: 802003152
BLK: 802003997
BLK: 802003998
BLK: 802003999
BLK: 803003000
BLK: 803003001
BLK: 803003002

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BLK: 803003082
BLK: 803003086
BLK: 803003088
BLK: 803003993
BLK: 803003995
BLK: 803003998
BLK: 803003999
BLK: 804001078
BLK: 804001079
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BLK: 804001081
BLK: 804001087

BLK: 804001088
BLK: 804001094
BLK: 804001095
BLK: 804001096
BLK: 804001992
BLK: 804001993
BLK: 804001994
BLK: 804004982
BLK: 804005989
BLK: 804006014
BLK: 804006015
BLK: 804006035
BLK: 804006036
BLK: 804006999
BLK: 804007011
BLK: 804007012
BLK: 804007013
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BLK: 804008060
BLK: 804008061
BLK: 804008062
BLK: 804008063
BLK: 804008064
BLK: 804008065
BLK: 804008066
BLK: 804008999
VTD: 21316 KisseMills
VTD: 21317 MerriamWoods (part)
BLK: 802003102
VTD: 21319 Protem
VTD: 21321 RockawayBeachWard2 (part)
BLK: 802003025
BLK: 802003059
BLK: 802003060
BLK: 802003064

BLK: 802003065
BLK: 802003066
BLK: 802003067
BLK: 802003103
BLK: 802003104
BLK: 802003105
BLK: 802003125
BLK: 802003126
VTD: 21322 Taneyville
VTD: 2133 Bradleyville
VTD: 2137 BrownBranch
VTD: 2138 Bryant
VTD: 2139 CedarCreek
Texas County
Washington County
Wayne County
Wright County

128.440. NINTH CONGRESSIONAL DISTRICT (2000 CENSUS). — The ninth district shall be composed of the following:

Adair County
Audrain County
Boone County
Callaway County
Camden County (part)
VTD: 02910 Freedom
VTD: 02920 OsageBeachNo.3
VTD: 0294 CamdentonNo.1 (part)
BLK: 506001007
BLK: 506001041
BLK: 506001042
BLK: 506001043
BLK: 506001989
BLK: 506001991
BLK: 506001992
BLK: 506001993
BLK: 506002001
BLK: 506002004
BLK: 506002005
BLK: 509001033
BLK: 509001034
BLK: 509001037
BLK: 509001038
BLK: 509001060
Clark County
Crawford County
Franklin County
Gasconade County
Knox County
Lewis County
Macon County
Maries County

Marion County
Miller County
Monroe County
Montgomery County
Osage County
Pike County
Ralls County
Randolph County
Scotland County
Shelby County
St. Charles County (part)
VTD: 183136 83 (part)
BLK: 111113000
BLK: 111213030
BLK: 111213031
VTD: 183142 222&New
VTD: 18345 150
VTD: 18347 152
VTD: 18367 200
VTD: 18368 201
VTD: 18369 202
VTD: 18371 203 (part)
BLK: 111441026
BLK: 111441027
BLK: 111441028
BLK: 111441029
BLK: 111441030
BLK: 111441031
BLK: 111441032
BLK: 111441033
BLK: 111441034
BLK: 111441035
BLK: 111441036
BLK: 111441037
BLK: 111441038
BLK: 111441049
BLK: 111441050
BLK: 111441051
BLK: 111441052
BLK: 111441053
BLK: 111441054
BLK: 111441056
BLK: 111441058
BLK: 111441101
BLK: 119021018
BLK: 119021019
BLK: 119021020
BLK: 119021021
BLK: 119021022
BLK: 119021023
BLK: 119021025
BLK: 119021026

BLK: 119021028
BLK: 119021029
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BLK: 119021063
BLK: 119021064
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BLK: 119021066
BLK: 119021067
BLK: 119021068
BLK: 122023010
BLK: 122023011
BLK: 122023012
BLK: 122023013
BLK: 122023014
BLK: 122023015
BLK: 122023016
BLK: 122023017
BLK: 122023018
BLK: 122023019
BLK: 122023020
BLK: 122023021
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BLK: 122023048
BLK: 122023116

BLK: 122023117
BLK: 122023118
BLK: 122023119
BLK: 122023120
VTD: 18374 206 (part)
BLK: 111243073
VTD: 18376 207 (part)
BLK: 111441016
BLK: 111441017
BLK: 111441018
BLK: 111441019
BLK: 111441020
BLK: 111441021
BLK: 111441107
BLK: 111441108
BLK: 111441109
BLK: 111441110
BLK: 111441111
BLK: 111441112
BLK: 111441113
BLK: 111441114
BLK: 111441115
BLK: 111441116
BLK: 111441117
BLK: 111441118
BLK: 111441119
BLK: 111441120
BLK: 111441121
BLK: 111441122
BLK: 111441123
BLK: 111441124
BLK: 111441125
BLK: 111441126
BLK: 111441127
BLK: 111441128
BLK: 111441129
BLK: 111441130
BLK: 111441131
BLK: 111441132
BLK: 111441133
BLK: 111441134
BLK: 111441135
BLK: 111441136
BLK: 111441998
BLK: 111441999
VTD: 18378 209
VTD: 18379 210 (part)
BLK: 119031002
BLK: 119031003
BLK: 119031004
BLK: 119031005
BLK: 119031006

BLK: 119031007
BLK: 119031008
BLK: 119031009
BLK: 119031010
BLK: 119031011
BLK: 119031012
BLK: 119031013
BLK: 119031014
BLK: 119031015
BLK: 119031016
BLK: 119031017
BLK: 119031020
BLK: 119031021
BLK: 119033019
BLK: 121021000
BLK: 121021001
VTD: 18386 220 (part)
BLK: 111031000
BLK: 111321000
BLK: 111321001
BLK: 111321002
BLK: 111321003
BLK: 111321004
BLK: 111321005
BLK: 111321006
BLK: 111321007
BLK: 111321008
BLK: 111321009
BLK: 111321010
VTD: 18387 221 (part)
BLK: 111031024
BLK: 111031025
BLK: 111031026
BLK: 111031027
BLK: 111031028
BLK: 111031029
BLK: 111031030
BLK: 111031031
BLK: 111031032
BLK: 111243064
BLK: 111243068
BLK: 111243069
BLK: 111243070
BLK: 111243071
BLK: 111243072
BLK: 111243075
BLK: 122013000
BLK: 122013001
BLK: 122013002
BLK: 122013003
BLK: 122013004
BLK: 122013005

BLK: 122013006
BLK: 122013007
BLK: 122013008
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Approved June 1, 2001

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SB 4 [SCS SB 4]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Raises Kansas City police salaries.

AN ACT to repeal sections 32.056, 84.480 and 84.510, RSMo 2000, relating to certain police officers, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 32.056. Confidentiality of motor vehicle or driver registration records of county, state or federal parole officers or federal pretrial officers.
- 84.480. Chief of police — appointment — qualifications — compensation (Kansas City).
- 84.510. Police officers and officials — appointment — compensation (Kansas City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.056, 84.480 and 84.510, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 32.056, 84.480 and 84.510, to read as follows:

32.056. CONFIDENTIALITY OF MOTOR VEHICLE OR DRIVER REGISTRATION RECORDS OF COUNTY, STATE OR FEDERAL PAROLE OFFICERS OR FEDERAL PRETRIAL OFFICERS. — The department of revenue shall not release the home address or any other information contained in the department's motor vehicle or driver registration records regarding any person who is a county, state or federal parole officer or who is a federal pretrial officer **or who is a peace officer pursuant to section 590.100, RSMo**, based on a specific request for such information from any person. Any person who is a county, state or federal parole officer or who is a federal pretrial officer **or who is a peace officer pursuant to section 590.100, RSMo**, may notify the department of such status and the department shall protect the confidentiality of the records on such a person as required by this section. This section shall not prohibit the department from releasing information on a motor registration list pursuant to section 32.055 **or from releasing information on any officer who holds a class A, B or C commercial driver's license pursuant to the Motor Carrier Safety Improvement Act of 1999, as amended, 49 U.S.C. 31309.**

84.480. CHIEF OF POLICE — APPOINTMENT — QUALIFICATIONS — COMPENSATION (KANSAS CITY). — The board of police commissioners shall appoint a chief of police who shall be the chief police administrative and law enforcement officer of such cities. The chief of police shall be chosen by the board solely on the basis of his or her executive and administrative qualifications and his or her demonstrated knowledge of police science and administration with special reference to his or her actual experience in law enforcement leadership and the provisions of section 84.420. At the time of the appointment, the chief shall not be more than sixty years of age, shall have had at least five years' executive experience in a governmental police agency and shall be certified by a surgeon or physician to be in a good physical condition, and shall be a citizen of the United States and shall either be or become a citizen of the state of Missouri and resident of the city in which he or she is appointed as chief of police. In order to secure and retain the highest type of police leadership within the departments of such cities, the chief shall receive a salary of not less than [seventy-four thousand eight hundred seventy-seven] **eighty thousand two hundred eleven** dollars, nor more than [one hundred eight thousand six hundred eighty-eight] **one hundred fifty-one thousand two hundred ninety-six** dollars per annum.

84.510. POLICE OFFICERS AND OFFICIALS — APPOINTMENT — COMPENSATION (KANSAS CITY). — 1. For the purpose of operation of the police department herein created, the chief of police, with the approval of the board, shall appoint such number of police department employees, including police officers and civilian employees as the chief of police from time to time deems necessary.

2. The base annual compensation of police officers shall be as follows for the several ranks:

(1) Lieutenant colonels, not to exceed five in number, at not less than [sixty-seven thousand one hundred eighty-three] **seventy-one thousand nine hundred sixty-nine** dollars, nor more than [eighty-seven thousand five hundred eighty] **ninety-nine thousand six hundred sixty** dollars per annum each;

(2) Majors at not less than [sixty thousand three hundred seventy-one] **sixty-four thousand six hundred seventy-one** dollars, nor more than [seventy-eight thousand five hundred eighty-nine] **eighty-five thousand eight hundred forty-eight** dollars per annum each;

(3) Captains at not less than [fifty-three thousand four hundred forty-two] **fifty-nine thousand five hundred thirty-nine** dollars, nor more than [seventy-one thousand three hundred two] **eighty-one thousand seven hundred forty-four** dollars per annum each;

(4) Sergeants at not less than [forty-five thousand four hundred twenty-three] **forty-eight thousand six hundred fifty-nine** dollars, nor more than [sixty-two thousand five hundred twenty-one] **sixty-six thousand nine hundred seventy-two** dollars per annum each;

(5) Detectives and police officers at not less than [twenty-four thousand eight hundred seventy-one] **twenty-six thousand six hundred forty-three** dollars, nor more than [fifty-three thousand one hundred forty-two] **fifty-nine thousand four hundred twelve** dollars per annum each.

3. The board of police commissioners has the authority by resolution to effect a comprehensive pay schedule program to provide for step increases with separate pay rates within each rank, in the above-specified salary ranges from police officers through chief of police.

4. Officers assigned to wear civilian clothes in the performance of their regular duties may receive an additional seventy-five dollars per month clothing allowance. Uniformed officers may receive fifty dollars per month uniform maintenance allowance.

5. The chief of police, subject to the approval of the board, shall establish the total regular working hours for all police department employees, and the board has the power, upon recommendation of the chief, to pay additional compensation for all hours of service rendered in excess of the established regular working period, but the rate of overtime compensation shall not exceed one and one-half times the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given nor deductions made from payments for overtime for the purpose of retirement benefits.

6. The board of police commissioners, by majority affirmative vote, including the mayor, has the authority by resolution to authorize incentive pay in addition to the base compensation of police officers and detectives below the rank of sergeant as provided for in subsection 2 of this section, to be paid officers who they determine are assigned duties which require an extraordinary degree of skill, technical knowledge and ability, or which are highly demanding or unusual. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

7. The board of police commissioners may effect programs to provide additional compensation for successful completion of academic work at an accredited college or university. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

8. The additional pay increments provided in subsections 6 and 7 of this section shall not be considered a part of the base compensation of police officers and shall not exceed five percent of what the officer would otherwise be entitled to pursuant to subsections 2 and 3 of this section.

9. Not more than twenty-five percent of the officers in any rank below the rank of sergeant who are receiving the maximum rate of pay authorized by subsections 2 and 3 of this section

may receive the additional pay increments authorized by subsections 6 and 7 of this section at any given time. However, any officer receiving a pay increment provided pursuant to the provisions of subsections 6 and 7 of this section shall not be deprived of such pay increment as a result of the limitations of this subsection.

Approved June 26, 2001

SB 5 [SCS SB 5 & 21]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises Criminal Activity Forfeiture Act.

AN ACT to repeal sections 513.605, 513.607, 513.647 and 513.653, RSMo 2000, relating to the criminal activity forfeiture act, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 513.605. Definitions.
- 513.607. Property subject to forfeiture — procedure — report required, when, contents — annual state auditor's report, contents — violations, penalty.
- 513.647. Transfer of property seized by state to federal agency, procedure — transfer not to be made unless violation is a felony — property owner may challenge, procedure.
- 513.653. Peace officers using federal forfeiture system, audit of federal seizure proceeds — copies provided to whom — violation, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 513.605, 513.607, 513.647 and 513.653, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 513.605, 513.607, 513.647 and 513.653, to read as follows:

513.605. DEFINITIONS. — As used in sections 513.600 to 513.645, unless the context clearly indicates otherwise, the following terms mean:

- (1) (a) "Beneficial interest":
 - a. The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or
 - b. The interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person;
- (b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located;
- (2) "Civil proceeding", any civil suit commenced by an investigative agency under any provision of sections 513.600 to 513.645;
- (3) "Criminal activity" is the commission, attempted commission, conspiracy to commit, or the solicitation, coercion or intimidation of another person to commit any crime which is chargeable by indictment or information under the following Missouri laws:
 - (a) Chapter 195, RSMo, relating to drug regulations;
 - (b) Chapter 565, RSMo, relating to offenses against the person;

- (c) Chapter 566, RSMo, relating to sexual offenses;
- (d) Chapter 568, RSMo, relating to offenses against the family;
- (e) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;
- (f) Chapter 570, RSMo, relating to stealing and related offenses;
- (g) Chapter 567, RSMo, relating to prostitution;
- (h) Chapter 573, RSMo, relating to pornography and related offenses;
- (i) Chapter 574, RSMo, relating to offenses against public order;
- (j) Chapter 575, RSMo, relating to offenses against the administration of justice;
- (k) Chapter 491, RSMo, relating to witnesses;
- (l) Chapter 572, RSMo, relating to gambling;
- (m) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;
- (n) Chapter 571, RSMo, relating to weapons offenses;
- (o) Chapter 409, RSMo, relating to regulation of securities;
- (p) Chapter 301, RSMo, relating to registration and licensing of motor vehicles;
- (4) "Criminal proceeding", any criminal prosecution commenced by an investigative agency under any criminal law of this state;
- (5) "Investigative agency", the attorney general's office, or the office of any prosecuting attorney or circuit attorney;
- (6) "Pecuniary value":
 - (a) Anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage; or
 - (b) Any other property or service that has a value in excess of one hundred dollars;
- (7) "Real property", any estate or legal or equitable interest in land situated in this state or any interest in such real property, including, but not limited to, any lease or deed of trust upon such real property;
- (8) **"Seizing agency", the agency which is the primary employer of the officer or agent seizing the property, including any agency in which one or more of the employees acting on behalf of the seizing agency is employed by the state of Missouri or any political subdivision of this state;**
- (9) **"Seizure", the point at which any law enforcement officer or agent discovers and exercises any control over property that an officer or agent has reason to believe was used or intended for use in the course of, derived from, or realized through criminal activity. Seizure includes but is not limited to preventing anyone found in possession of the property from leaving the scene of the investigation while in possession of the property;**
- (10) (a) "Trustee":
 - a. Any person who holds legal or record title to real property for which any other person has a beneficial interest; or
 - b. Any successor trustee or trustees to any of the foregoing persons;
- (b) "Trustee" does not include the following:
 - a. Any person appointed or acting as a personal representative under chapter 475, RSMo, or under chapter 473, RSMo;
 - b. Any person appointed or acting as a trustee of any testamentary trust or as trustee of any indenture of trust under which any bonds are or are to be issued.

513.607. PROPERTY SUBJECT TO FORFEITURE — PROCEDURE — REPORT REQUIRED, WHEN, CONTENTS — ANNUAL STATE AUDITOR'S REPORT, CONTENTS — VIOLATIONS, PENALTY. — 1. All property of every kind, **including cash or other negotiable instruments**, used or intended for use in the course of, derived from, or realized through criminal activity is subject to civil forfeiture. Civil forfeiture shall be had by a civil procedure known as a CAFA forfeiture proceeding.

2. A CAFA forfeiture proceeding shall be governed by the Missouri rules of court, rules of civil procedure, except to the extent that special rules of procedure are stated herein.

3. **Any property seized by a law enforcement officer or agent shall not be disposed of pursuant to section 542.301, RSMo, or by the uniform disposition of unclaimed property act, sections 447.500 through 447.595, RSMo, unless the CAFA proceeding involving the seized property does not result in a judgment of forfeiture.**

4. In cases where the property is abandoned or unclaimed, an in rem CAFA forfeiture proceeding may be instituted by petition by the prosecuting attorney of the county in which the property is located or seized by the attorney general's office. The proceeding may be commenced before or after seizure of the property.

[4.] 5. In lieu of, or in addition to, an in rem proceeding under subsection 3 of this section, the prosecuting attorney or attorney general may bring an in personam action for the forfeiture of property, which may be commenced by petition before or after the seizure of property.

[5.] 6. (1) If the petition is filed before seizure, it shall state what property is sought to be forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture, and the names of all persons known to have or claim an interest in the property. The court shall determine ex parte whether there is reasonable cause to believe that the property is subject to forfeiture and that notice to those persons having or claiming an interest in the property prior to seizure would cause the loss or destruction of the property. If the court finds that reasonable cause does not exist to believe the property is subject to forfeiture, it shall dismiss the proceeding. If the court finds that reasonable cause does exist to believe the property is subject to forfeiture but there is not reasonable cause to believe that prior notice would result in loss or destruction, it shall order service on all persons known to have or claim an interest in the property prior to a further hearing on whether a writ of seizure should issue. If the court finds that there is reasonable cause to believe that the property is subject to forfeiture and to believe that prior notice would cause loss or destruction, it shall without any further hearing or notice issue a writ of seizure directing the sheriff of the county or other authorized law enforcement agency where the property is found to seize it.

(2) Seizure may be effected by a law enforcement officer authorized to enforce the criminal laws of this state prior to the filing of the petition and without a writ of seizure if the seizure is incident to a lawful arrest, search, or inspection and the officer has probable cause to believe the property is subject to forfeiture and will be lost or destroyed if not seized. Within four days of the date of seizure, such seizure shall be reported by said officer to the prosecuting attorney of the county in which the seizure is effected or the attorney general; and if in the opinion of the prosecuting attorney or attorney general forfeiture is warranted, the prosecuting attorney or attorney general shall, within ten days after receiving notice of seizure, file a petition for forfeiture. The petition shall state, in addition to the information required in subdivision (1) of this subsection, the date and place of seizure. The burden of proof will be on the investigative agency to prove all allegations contained in the petition.

[6.] 7. After the petition is filed or the seizure effected, whichever is later, every person known to have or claim an interest in the property shall be served, if not previously served, with a copy of the petition and a notice of seizure in the manner provided by the Missouri rules of court and rules of civil procedure. Service by publication may be ordered upon any party whose whereabouts cannot be determined or if there be unknown parties.

[7.] 8. The prosecuting attorney or attorney general to whom the seizure is reported shall report annually by January thirty-first for the previous calendar year all seizures. Such report shall include the date, time, and place of seizure, the property seized, the estimated value of the property seized, the person or persons from whom the property was seized, the criminal charges filed, and the disposition of the seizure, forfeiture and criminal actions. The report shall be made to the director of the Missouri department of public safety and shall be considered an open record. **The prosecuting attorney or attorney general shall submit a copy of the report to**

the state auditor at the time the report is made to the director of the department of public safety.

9. The state auditor shall make an annual report compiling the data received from law enforcement, prosecuting attorneys and the attorney general, and shall submit the report regarding seizures for the previous calendar year to the general assembly annually by February twenty-eighth.

10. Intentional or knowing failure to comply with any reporting requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars.

513.647. TRANSFER OF PROPERTY SEIZED BY STATE TO FEDERAL AGENCY, PROCEDURE — TRANSFER NOT TO BE MADE UNLESS VIOLATION IS A FELONY — PROPERTY OWNER MAY CHALLENGE, PROCEDURE. — 1. No state or local law enforcement agency may transfer any property seized by the state or local agency to any federal agency for forfeiture under federal law until the prosecuting attorney and the circuit judge of the county in which the property was seized first review the seizure and approve the transfer to a federal agency, **regardless of the identity of the seizing agency.** The prosecuting attorney and the circuit judge shall not approve any transfer unless it reasonably appears the activity giving rise to the investigation or seizure involves more than one state or [the nature of the investigation or seizure would be better pursued under federal forfeiture statutes] **unless it is reasonably likely to result in federal criminal charges being filed, based upon a written statement of intent to prosecute from the United States attorney with jurisdiction.** No transfer shall be made to a federal agency unless the violation would be a felony under Missouri law or federal law.

2. Prior to transfer, in an ex parte proceeding, the prosecuting attorney shall file with the court a statement setting forth the facts and circumstances of the event or occurrence which led to the seizure of the property and the parties involved, if known. The court shall certify the filing, and notify by mailing to the last known address of the property owner that his property is subject to being transferred to the federal government and further notify the property owner of his right to file a petition stating legitimate grounds for challenging the transfer. If within ninety-six hours after the filing of the statement by the prosecuting attorney, the property owner by petition shows by a preponderance of the evidence that the property should not be transferred to the federal government for forfeiture, the court shall delay such transfer until a hearing may be held. If the court orders a delay in transfer, no later than ten days after the filing of a petition under this section and sections 513.649 and 513.651, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the prosecutor has proved by a preponderance of the evidence that the investigation or seizure involved more than one state or that the nature of the investigation or seizure would be better pursued under the federal forfeiture statutes, the court shall order that the transfer shall be made.

513.653. PEACE OFFICERS USING FEDERAL FORFEITURE SYSTEM, AUDIT OF FEDERAL SEIZURE PROCEEDS — COPIES PROVIDED TO WHOM — VIOLATION, PENALTY. — 1. Law enforcement agencies involved in using the federal forfeiture system under federal law shall be required at the end of their respective fiscal year to acquire an independent audit of the federal seizures and the proceeds received therefrom and provide this audit to their respective governing body. A copy of such audit shall be provided to the state auditor's office. This audit shall be paid for out of the proceeds of such federal forfeitures.

2. Intentional or knowing failure to comply with the audit requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars.

Approved May 17, 2001

SB 10 [HS HCS SCS SB 10]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Divorce judgments shall not expire; Internet government documents are not hearsay; blind pensions not state debt for estate.

AN ACT to repeal sections 511.350, 511.360 and 516.350, RSMo 2000, relating to division of benefits in dissolution of marriage judgments, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 511.350. Liens on real estate established by judgment or decrees in courts of record, exception — associate circuit court, procedure required.
- 511.360. Commencement, extent and duration of lien.
- 516.350. Judgments presumed to be paid, when — presumption, how rebutted — inclusion in the automated child support system.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 511.350, 511.360 and 516.350, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 511.350, 511.360 and 516.350, to read as follows:

511.350. LIENS ON REAL ESTATE ESTABLISHED BY JUDGMENT OR DECREES IN COURTS OF RECORD, EXCEPTION — ASSOCIATE CIRCUIT COURT, PROCEDURE REQUIRED. — 1. Judgments and decrees rendered by the supreme court, by any United States district or circuit court held within this state, by any district of the court of appeals, by any circuit court and any probate division of the circuit court, except judgments and decrees rendered by associate, small claims and municipal divisions of the circuit courts, shall be liens on the real estate of the person against whom they are rendered, situate in the county for which or in which the court is held.

2. Judgments and decrees rendered by the associate divisions of the circuit courts shall not be liens on the real estate of the person against whom they are rendered until such judgments or decrees are filed with the clerk of the circuit court pursuant to sections [517.770] **517.141** and [517.780] **517.151**, RSMo.

3. Judgments and decrees rendered by the small claims and municipal divisions of the circuit court shall not constitute liens against the real estate of the person against whom they are rendered.

511.360. COMMENCEMENT, EXTENT AND DURATION OF LIEN. — The lien of a judgment or decree shall extend as well to the real estate acquired after the rendition thereof, as to that which was owned when the judgment or decree was rendered. Such liens shall commence on the day of the rendition of the judgment, and shall continue for [three] **ten** years, subject to be revived as herein provided; but when two or more judgments or decrees are rendered at the same term, as between the parties entitled to such judgments or decrees, the lien shall commence on the last day of the term at which they are rendered.

516.350. JUDGMENTS PRESUMED TO BE PAID, WHEN — PRESUMPTION, HOW REBUTTED — INCLUSION IN THE AUTOMATED CHILD SUPPORT SYSTEM. — 1. Every judgment, order or decree of any court of record of the United States, or of this or any other state, territory or country, except for any judgment, order, or decree awarding child support or

maintenance **or dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment** which mandates the making of payments over a period of time **or payments in the future**, shall be presumed to be paid and satisfied after the expiration of ten years from the date of the original rendition thereof, or if the same has been revived upon personal service duly had upon the defendant or defendants therein, then after ten years from and after such revival, or in case a payment has been made on such judgment, order or decree, and duly entered upon the record thereof, after the expiration of ten years from the last payment so made, and after the expiration of ten years from the date of the original rendition or revival upon personal service, or from the date of the last payment, such judgment shall be conclusively presumed to be paid, and no execution, order or process shall issue thereon, nor shall any suit be brought, had or maintained thereon for any purpose whatever. An action to emancipate a child, and any personal service or order rendered thereon, shall not act to revive the support order.

2. In any judgment, order, or decree awarding child support or maintenance, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 31, 1982.

3. In any judgment, order, or decree dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 28, 2001.

[3.] 4. In any judgment, order or decree awarding child support or maintenance, payment duly entered on the record as provided in subsection 1 of this section shall include recording of payments or credits in the automated child support system created pursuant to chapter 454, RSMo, by the division of child support enforcement or payment center pursuant to chapter 454, RSMo.

Approved June 13, 2001

SB 13 [SCS SB 13]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts retired members of the armed services from paying personalized license plate fee.

AN ACT to repeal section 301.144 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty- eighth general assembly, first regular session, section 301.144 as enacted by conference committee substitute for house substitute for house committee substitute for senate substitute for senate bill no. 70, eighty-eighth general assembly, first regular session and section 301.441, relating to motor vehicle license plates, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 301.144. Personalized license plates, appearance, fees — new plates every three years without charge — obscene plates prohibited — amateur radio operators, plates, how marked — repossessed vehicles, placards — retired U.S. military plates, how marked.
- 301.144. Personalized license plates, appearance, fees — new plates every three years without charge — obscene plates prohibited — amateur radio operators, plates, how marked — repossessed vehicles, placards — retired U.S. military plates, how marked.
- 301.441. Retired members of the United States military special license plates — application — proof required — license, how marked.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.144 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty- eighth general assembly, first regular session, section 301.144 as enacted by conference committee substitute for house substitute for house committee substitute for senate substitute for senate bill no. 70, eighty-eighth general assembly, first regular session, and section 301.441, are repealed and two new sections enacted in lieu thereof, to be known as sections 301.144 and 301.441, to read as follows:

301.144. PERSONALIZED LICENSE PLATES, APPEARANCE, FEES — NEW PLATES EVERY THREE YEARS WITHOUT CHARGE — OBSCENE PLATES PROHIBITED — AMATEUR RADIO OPERATORS, PLATES, HOW MARKED — REPOSSESSED VEHICLES, PLACARDS — RETIRED U.S. MILITARY PLATES, HOW MARKED. — 1. The director of revenue shall establish and issue special personalized license plates containing letters or numbers or combinations of letters and numbers, not to exceed six characters in length. **Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.** Any person desiring to obtain a special personalized license plate for any motor vehicle other than a commercial motor vehicle licensed for more than twelve thousand pounds shall apply to the director of revenue on a form provided by the director and shall pay a fee of fifteen dollars in addition to the regular registration fees. The director of revenue shall issue rules and regulations setting the standards and establishing the procedure for application for and issuance of the special personalized license plates and shall provide a deadline each year for the applications. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.** No two owners shall be issued identical plates. An owner shall make a new application and pay a new fee each year [he] **such owner** desires to obtain or retain special personalized license plates; however, notwithstanding the provisions of subsection 8 of section 301.130 to the contrary, the director shall allow the special personalized license plates to be replaced with new plates every three years without any additional charge, above the fee established in this section, to the renewal applicant. Any person currently in possession of an approved personalized license plate shall have first priority on that particular plate for each of the following years that timely and appropriate application is made.

2. No personalized license plates shall be issued containing any letters, numbers or combination of letters and numbers which are obscene, profane, inflammatory or contrary to public policy. The director may recall any personalized license plates, including those issued

prior to August 28, 1992, if [he] **the director** determines that the plates are obscene, profane, inflammatory or contrary to public policy. Where the director recalls such plates [under] **pursuant to** the provisions of this subsection, [he] **the director** shall reissue personalized license plates to the owner of the motor vehicle for which they were issued at no charge, if the new plates proposed by the owner of the motor vehicle meet the standards established [under] **pursuant to** this section. Nothing contained in this subsection shall be interpreted to prohibit the use of license plates, which are no longer valid for registration purposes, as collector's items or for decorative purposes.

3. The director may also establish categories of [specialized personalized] **special** license plates from which license plates may be issued. Any such person, **other than a person exempted from the additional fee pursuant to subsection 6 of this section**, that desires a [special] personalized **special** license plate from any such category shall pay the same additional fee and make the same kind of application as that required by subsection 1 of this section, and the director shall issue such plates in the same manner as other [special] personalized **special** license plates are issued.

4. The director of revenue shall issue to residents of the state of Missouri who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application and upon payment of the additional fee specified in subsection 1 of this section, [special] **except for a person exempted from the additional fee pursuant to subsection 6 of this section**, personalized **special** license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission to the applicant. The application shall be accompanied by an affidavit stating that the applicant has an unrevoked and unexpired amateur radio license issued by the Federal Communications Commission and the official radio call letters assigned by the Federal Communications Commission to the applicant.

5. Notwithstanding any other provision to the contrary, any business [listed in subsection 1 of section 301.256] that repossesses motor vehicles or trailers and sells or otherwise disposes of them shall be issued a placard displaying the word "Repossessed", provided such business pays the fees presently required of a manufacturer, distributor, or dealer in subsection 1 of section 301.253. Such placard shall bear a number and shall be in such form as the director of revenue shall determine, and shall be only used for demonstrations when displayed substantially as provided for number plates on the rear of the motor vehicle or trailer.

6. Notwithstanding any provision of law to the contrary, any person who has retired from any branch of the United States armed forces or reserves, the United States Coast Guard or reserve, the United States Merchant Marines or reserve, the National Guard, or any subdivision of any such services shall be exempt from the additional fee required for personalized license plates issued pursuant to section 301.441. As used in this subsection, "retired" means having served twenty or more years in the appropriate branch of service and having received an honorable discharge.

[301.144. PERSONALIZED LICENSE PLATES, APPEARANCE, FEES — NEW PLATES EVERY THREE YEARS WITHOUT CHARGE — OBSCENE PLATES PROHIBITED — AMATEUR RADIO OPERATORS, PLATES, HOW MARKED — REPOSSESSED VEHICLES, PLACARDS — RETIRED U.S. MILITARY PLATES, HOW MARKED. — 1. The director of revenue shall establish and issue special personalized license plates containing letters or numbers or combinations of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Any person desiring to obtain a special personalized license plate for any motor vehicle other than a commercial motor vehicle licensed for more than twelve thousand pounds shall apply to the director of revenue on a form provided by the director and shall pay a fee of fifteen dollars in addition to the regular registration fees. The director of revenue shall issue rules and regulations setting the standards and establishing the procedure for application for and issuance of the special personalized license plates and shall provide a deadline

each year for the applications. No rule or regulation promulgated pursuant to this section shall become effective until approved by the joint committee on administrative rules. No two owners shall be issued identical plates. An owner shall make a new application and pay a new fee each year he desires to obtain or retain special personalized license plates; however, notwithstanding the provisions of subsection 8 of section 301.130 to the contrary, the director shall allow the special personalized license plates to be replaced with new plates every three years without any additional charge, above the fee established in this section, to the renewal applicant. Any person currently in possession of an approved personalized license plate shall have first priority on that particular plate for each of the following years that timely and appropriate application is made.

2. No personalized license plates shall be issued containing any letters, numbers or combination of letters and numbers which are obscene, profane, inflammatory or contrary to public policy. The director may recall any personalized license plates, including those issued prior to August 28, 1992, if he determines that the plates are obscene, profane, inflammatory or contrary to public policy. Where the director recalls such plates under the provisions of this subsection, he shall reissue personalized license plates to the owner of the motor vehicle for which they were issued at no charge, if the new plates proposed by the owner of the motor vehicle meet the standards established under this section. Nothing contained in this subsection shall be interpreted to prohibit the use of license plates, which are no longer valid for registration purposes, as collector's items or for decorative purposes.

3. The director may also establish categories of specialized personalized license plates from which license plates may be issued. Any such person that desires a special personalized license plate from any such category shall pay the same additional fee and make the same kind of application as that required by subsection 1 of this section, and the director shall issue such plates in the same manner as other special personalized license plates are issued.

4. The director of revenue shall issue to residents of the state of Missouri who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application and upon payment of the additional fee specified in subsection 1 of this section, special personalized license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission to the applicant. The application shall be accompanied by an affidavit stating that the applicant has an unrevoked and unexpired amateur radio license issued by the Federal Communications Commission and the official radio call letters assigned by the Federal Communications Commission to the applicant.

5. Notwithstanding any other provision to the contrary, any business listed in subsection 1 of section 301.570 that repossesses motor vehicles or trailers and sells or otherwise disposes of them shall be issued a placard displaying the word "Repossessed", provided such business pays the fees presently required of a manufacturer, distributor, or dealer in section 301.560. Such placard shall bear a number and shall be in such form as the director of revenue shall determine, and shall be only used for demonstrations when displayed substantially as provided for number plates on the rear of the motor vehicle or trailer.]

301.441. RETIRED MEMBERS OF THE UNITED STATES MILITARY SPECIAL LICENSE PLATES — APPLICATION — PROOF REQUIRED — LICENSE, HOW MARKED. — Any person who is a retired member of the United States Army, Navy, Air Force, Marine Corps or Coast Guard may apply for issuance of special motor vehicle license plates for any passenger motor vehicle subject to the registration fees provided in section 301.055, or for a nonlocal property carrying commercial motor vehicle licensed for a gross weight of nine thousand one pounds to twelve thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. No additional fee shall be charged for a set of special license plates issued pursuant to this section. **Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.** Such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of retired status from that particular branch of the United

States armed forces as the director may require. The plates shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129. **Such plates shall bear the insignia of the respective branch the applicant served in.** The director shall then issue license plates bearing the words "RETIRED MILITARY" in preference to the words "SHOW-ME STATE" in a form prescribed by the advisory committee established in section 301.129. Such license plates shall be made with fully reflective material, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

Approved June 7, 2001

SB 25 [SB 25]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes prohibition on collection of tuition by the University of Missouri.

AN ACT to repeal section 172.360, RSMo 2000, relating to tuition at the University of Missouri, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

172.360. Students admissible — tuition and fees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 172.360, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 172.360, to read as follows:

172.360. STUDENTS ADMISSIBLE — TUITION AND FEES. — All youths, resident of the state of Missouri, over the age of sixteen years, shall be admitted to all the privileges and advantages of the various classes of all the departments of the University of the State of Missouri [without payment of tuition]; provided, that each applicant for admission therein shall possess such scholastic attainments and mental and moral qualifications as shall be prescribed in rules adopted and established by the board of curators; and provided further, that [nothing herein enacted shall be construed to prevent the board of curators from collecting reasonable tuition fees in the professional departments, and the necessary fees for maintenance of the laboratories in all departments of the university, and establishing such other reasonable fees for library, hospital, incidental expenses or late registration as they may deem necessary] **the board of curators may charge and collect reasonable tuition and other fees necessary for the maintenance and operation of all departments of the university, as they may deem necessary.**

Approved June 8, 2001

SB 48 [CCS HS HCS SS SCS SB 48]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds the Department of Mental Health's employee disqualification list to the Family Care Safety Registry.

AN ACT to repeal sections 210.001, 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 210.930, 210.936, 453.073, 630.170 and 630.405, RSMo 2000, and to enact in lieu thereof fifteen new sections relating to the family care safety registry, with penalty provisions.

SECTION

- A. Enacting clause.
- 210.001. Department of social services to meet needs of homeless, dependent and neglected children — only certain regional child assessment centers funded.
- 210.900. Definitions.
- 210.903. Family care safety registry and access line established, contents.
- 210.906. Registration form, contents — violation, penalty — fees — voluntary registration permitted, when.
- 210.909. Department duties — information included in registry, when — registrant notification.
- 210.915. Departmental collaboration on registry information — rulemaking authority.
- 210.921. Release of registry information, when — limitations of disclosure — immunity from liability, when.
- 210.922. Use of registry information by the department, when.
- 210.927. Annual report, when, contents.
- 210.930. Report to general assembly, when, content.
- 210.936. Registry information deemed public record.
- 453.073. Subsidy to adopted child — determination of — how paid — written agreement
- 630.170. Disqualification for employment because of conviction — appeal process — registry maintained, when.
- 630.405. Purchase of services, procedure — commissioner of administration to cooperate — rules, procedure.
 - 1. Child abuse, custody and neglect commission created, members, terms — reports — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 210.001, 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 210.930, 210.936, 453.073, 630.170 and 630.405, RSMo 2000, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 210.001, 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.922, 210.927, 210.930, 210.936, 453.073, 630.170, 630.405 and 1, to read as follows:

210.001. DEPARTMENT OF SOCIAL SERVICES TO MEET NEEDS OF HOMELESS, DEPENDENT AND NEGLECTED CHILDREN — ONLY CERTAIN REGIONAL CHILD ASSESSMENT CENTERS FUNDED. — 1. The department of social services shall address the needs of homeless, dependent and neglected children in the supervision and custody of the division of family services and to their families-in-conflict by:

- (1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child;
- (2) Insuring that appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification;
- (3) Developing and implementing preventive and early intervention social services which have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic.

2. The department of social services shall fund only regional child assessment centers known as:

- (1) The St. Louis City child assessment center;
- (2) The St. Louis County child assessment center;
- (3) The Jackson County child assessment center;
- (4) The Buchanan County child assessment center;
- (5) The Greene County **and Lakes Area** child assessment center;
- (6) The Boone County child assessment center;

- (7) The Joplin child assessment center;
- (8) The St. Charles County child assessment center;
- (9) The Jefferson County child assessment center; [and]
- (10) The Pettis County child assessment center; **and**
- (11) **The southeast Missouri child assessment center.**

210.900. DEFINITIONS. — 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005, RSMo. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

(3) "Department", the department of health;

(4) "Elder-care provider", any operator licensed pursuant to chapter 198, RSMo, **or any person, corporation, or association who provides in-home services under contract with the division of aging**, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, RSMo, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, RSMo, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012, RSMo, applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) "Patrol", the Missouri state highway patrol;

(7) **"Employer", any child care provider, elder care provider, or personal care provider as defined in this section;**

~~[(7)]~~ (8) **"Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;**

(9) **"Personal-care provider", any person, corporation, or association who provides personal care services or supports under contract with the department of mental health, the division of aging, the department of health or the department of elementary and secondary education;**

(10) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

~~[(8)]~~ (11) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

210.903. FAMILY CARE SAFETY REGISTRY AND ACCESS LINE ESTABLISHED, CONTENTS. — 1. To protect children [and], the elderly, **and disabled individuals** in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers' [and], elder-care workers', **and personal-care workers'** background and on child-care [and], elder-care **and personal care** providers through:

- (1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;
- (2) Probable cause findings of abuse and neglect pursuant to sections 210.109 to 210.183 **and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;**
- (3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;
- (4) **As of January 1, 2003, the department of mental health's employee disqualification registry;**
- (5) Foster parent licensure denials, revocations and **involuntary** suspensions pursuant to section 210.496;
- [(5)] (6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259; and
- [(6)] (7) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo.

210.906. REGISTRATION FORM, CONTENTS — VIOLATION, PENALTY — FEES — VOLUNTARY REGISTRATION PERMITTED, WHEN. — 1. Every child-care worker or elder-care worker hired on or after January 1, 2001, **or personal care worker hired on or after January 1, 2002,** shall complete a registration form provided by the department. The department shall make such forms available no later than January 1, 2001, and may, by rule, determine the specific content of such form, but every form shall:

- (1) Request the valid Social Security number of the applicant;
- (2) Include information on the person's right to appeal the information contained in the registry pursuant to section 210.912;
- (3) Contain the signed consent of the applicant for the background checks required pursuant to this section; and
- (4) Contain the signed consent for the release of information contained in the background check for employment purposes only.

2. [Any person] **Every child-care worker or elder-care worker** hired on or after January 1, 2001, **and every personal care worker hired on or after January 1, 2002,** shall complete a registration form within fifteen days of the beginning of such person's employment. Any person employed as a child-care [worker or], elder-care **or personal-care** worker who fails to submit a completed registration form to the department of health as required by sections 210.900 to 210.936 without good cause, as determined by the department, is guilty of a class B misdemeanor.

3. The costs of the criminal background check may be paid by the individual applicant, or by the provider if the applicant is so employed, or for those applicants receiving public assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall be deposited to the credit of the criminal record system fund as required by section 43.530, RSMo.

4. Any person not required to register pursuant to the provisions of sections 210.900 to 210.936 may also be included in the registry if such person voluntarily applies to the department for registration and meets the requirements of this section and section 210.909, including submitting to the background checks in subsection 1 of section 210.909.

5. The provisions of sections 210.900 to 210.936 shall not extend to related child care [and], related elder care **or related personal-care.**

210.909. DEPARTMENT DUTIES — INFORMATION INCLUDED IN REGISTRY, WHEN — REGISTRANT NOTIFICATION. — 1. Upon submission of a completed registration form by a child-care worker [or], elder-care worker **or personal-care attendant,** the department, [in coordination with the department of social services,] shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant has been recorded pursuant to [section 210.145] **sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;**

(2) Determine if the applicant has been refused licensure or has experienced **involuntary** licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;

(4) **As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;**

[(4)] (5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any conviction, plea of guilty or nolo contendere, or a suspended execution of sentence to a [felony] charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568, 569, 573, 575 and 578, RSMo; and

[(5)] (6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo.

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any [felony] convictions, employee disqualification listings, [pursuant to section 660.315, RSMo,] **registry listings**, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

210.915. DEPARTMENTAL COLLABORATION ON REGISTRY INFORMATION — RULEMAKING AUTHORITY. — The department of corrections, the department of public safety [and], the department of social services **and the department of mental health** shall collaborate with the department to compare records on child-care [and], elder-care **and personal-care** workers, and the records of persons with criminal convictions and the background checks pursuant to subdivisions (1) to (6) of subsection 2 of section 210.903, and to enter into any interagency agreements necessary to facilitate the receipt of such information and the ongoing updating of such information. The department[, in coordination with the department of social services,] shall promulgate rules and regulations concerning such updating, including subsequent background reviews as listed in subsection 1 of section 210.909.

210.921. RELEASE OF REGISTRY INFORMATION, WHEN — LIMITATIONS OF DISCLOSURE — IMMUNITY FROM LIABILITY, WHEN. — 1. The department shall not provide any registry information pursuant to this section unless the department obtains [by asking for] the name and address of the person calling, and determines that the inquiry is for employment purposes only. For purposes of sections 210.900 to 210.936, "employment purposes" includes direct employer-employee relationships, prospective employer-employee relationships, and screening and interviewing of persons or facilities by those persons contemplating the placement of an individual in a [child-or] **child-care, elder-care or personal-care** setting. Disclosure of background information concerning a given applicant recorded by the department in the registry shall be limited to:

(1) Confirming whether the individual is listed in the registry; and

(2) Indicating whether the individual has been listed or named in any of the background checks listed in subsection 2 of section 210.903. If such individual has been so listed, the department of health shall only disclose the name of the background check in which the individual has been identified. **With the exception of any agency licensed by the state to**

provide child care, elder care or personal care which shall receive specific information immediately if requested, any specific information related to such background check shall only be disclosed after the department has received a signed request from the person calling, with the person's name, address and reason for requesting the information.

2. Any person requesting registry information shall be informed that the registry information provided pursuant to this section consists only of information relative to the state of Missouri and does not include information from other states or information that may be available from other states.

3. Any person who uses the information obtained from the registry for any purpose other than that specifically provided for in sections 210.900 to 210.936 is guilty of a class B misdemeanor.

4. When any registry information is disclosed pursuant to subdivision (2) of subsection 1 of this section, the department shall notify the registrant of the name and address of the person making the inquiry.

5. The department of health staff providing information pursuant to sections 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions; provided, however, any department of health staff person who releases registry information in bad faith or with ill intent shall not have immunity from any liability, civil or criminal. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from the release of registry information. The department is prohibited from selling the registry or any portion of the registry for any purpose including "employment purposes" as defined in subsection 1 of this section.

210.922. USE OF REGISTRY INFORMATION BY THE DEPARTMENT, WHEN. — The department may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters 190, 195, 197, 198 and 660, RSMo.

210.927. ANNUAL REPORT, WHEN, CONTENTS. — The department of health shall make an annual report, no later than July first of each year, to the speaker of the house of representatives and the president pro tem of the senate on the operation of the family care safety registry and toll-free telephone service, including data on the number of information requests received from the public, identification of any barriers encountered in administering the provisions of sections 210.900 to 210.936, recommendations for removing or minimizing the barriers so identified, and any recommendations for improving the delivery of information on child-care [workers and], elder-care **and personal-care** workers to the public.

210.930. REPORT TO GENERAL ASSEMBLY, WHEN, CONTENT. — By January 1, 2001, the department shall provide a report to the speaker of the house and president pro tem of the senate with recommendations on:

(1) Ensuring that thorough background checks are conducted on all providers pursuant to sections 210.900 to 210.936 without duplicating background checks that are required or have been conducted pursuant to other provisions in state law;

(2) Ensuring that data obtained from background checks which are currently available or may be required by law after August 28, 1999, are included in the registry;

(3) The feasibility of transferring the responsibility of conducting background checks on providers to the registry;

(4) [Providing information and access to the registry for personal care attendants for the disabled;

(5)] Including a national screening process on a voluntary and mandatory basis within the registry; and

[(6)] (5) Effecting Internet access to the registry.

210.936. REGISTRY INFORMATION DEEMED PUBLIC RECORD. — For purposes of providing background information pursuant to sections 210.900 to 210.936, reports and related information pursuant to sections 198.070 and 198.090, RSMo, **sections 210.109 to 210.183, section 630.170, RSMo, and section 660.317, RSMo,** and sections 660.300 to 660.315, RSMo, shall be deemed public records.

453.073. SUBSIDY TO ADOPTED CHILD — DETERMINATION OF — HOW PAID — WRITTEN AGREEMENT — 1. The division of family services is authorized to grant a subsidy to a child in one of the forms of allotment defined in section 453.065. Determination of the amount of monetary need is to be made by the division at the time of placement, if practicable, and in reference to the needs of the child, including consideration of the physical and mental condition, **and** age [and racial and ethnic background] of the child in each case; provided, however, that the subsidy amount shall not exceed the expenses of foster care and medical care for foster children paid under the homeless, dependent and neglected foster care program.

2. The subsidy shall be paid for children who have been in the care and custody of the division of family services under the homeless, dependent and neglected foster care program. In the case of a child who has been in the care and custody of a private child-caring or child-placing agency or in the care and custody of the division of youth services or the department of mental health, a subsidy shall be available from the division of family services subsidy program in the same manner and under the same circumstances and conditions as provided for a child who has been in the care and custody of the division of family services.

3. Within thirty days after the authorization for the grant of a subsidy by the division of family services, a written agreement shall be entered into by the division and the parents. The agreement shall set forth the following terms and conditions:

- (1) The type of allotment;
- (2) The amount of assistance payments;
- (3) The services to be provided;
- (4) The time period for which the subsidy is granted, if that period is reasonably ascertainable;
- (5) The obligation of the parents to inform the division when they are no longer providing support to the child or when events affect the subsidy eligibility of the child;
- (6) The eligibility of the child for Medicaid.

[4. In the case that the subsidized family moves from the state of Missouri, the granted subsidy shall remain in force as stipulated in the allotment agreement, as long as the adopting family follows the established requirements and, provided further, that a subsidized family which has moved its residence from the state of Missouri shall, as a condition for the continuance of the granted subsidy, submit to the division of family services by the thirtieth day of June of each year, on a form to be provided by such division, a statement of the amounts paid for expenses for the care and maintenance of the adopted child in the preceding year. If the subsidized family fails to submit such form by the thirtieth day of June of any year, payments under the provisions of sections 453.065 to 453.074 to a family which has moved its residence from the state of Missouri shall cease.]

630.170. DISQUALIFICATION FOR EMPLOYMENT BECAUSE OF CONVICTION — APPEAL PROCESS — REGISTRY MAINTAINED, WHEN. — 1. A person convicted of any crime [under] **pursuant to** section 630.155 or 630.160 shall be disqualified from holding any position in any public or private facility or day program operated, funded or licensed by the department or in any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632, RSMo.

2. A person convicted of any felony offense against persons as defined in chapter 565, RSMo; of any felony sexual offense as defined in chapter 566, RSMo; of any felony offense defined in section 568.045, 568.050, 568.060, 569.020, 569.030, 569.040 or 569.050, RSMo,

or of an equivalent felony offense shall be disqualified from holding any direct-care position in any public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

3. Any person disqualified [under] **pursuant to** the provisions of subsection 1 or 2 of this section may appeal the disqualification to the director of the department or the director's designee. The request shall be written and may not be made more than once every twelve months. The request may be granted by the director or designee if in the judgment of the director or designee a clear showing has been made by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client of a facility, program or service. The director or designee may grant the appeal subject to any conditions deemed appropriate and failure to comply with such terms may result in the person again being disqualified. Decisions by the director or designee [under] **pursuant to** the provisions of this subsection shall not be subject to appeal. The right to appeal [under] **pursuant to** this subsection shall not apply to persons convicted of any crime [under] **pursuant to** the provisions of chapter 566 or 568, RSMo, or section 565.020 or 565.021, RSMo.

4. The department may maintain a disqualification registry and place on the registry the names of any persons who have been finally determined by the department to be disqualified pursuant to this section, or who have had administrative substantiations made against them for abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from holding any position in any public or private facility or day program operated, funded or licensed by the department, or any mental health facility or mental health program in which persons are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

630.405. PURCHASE OF SERVICES, PROCEDURE — COMMISSIONER OF ADMINISTRATION TO COOPERATE — RULES, PROCEDURE. — 1. The department may purchase services for patients, residents or clients from private and public vendors in this state with funds appropriated for this purpose.

2. Services that may be purchased may include prevention, diagnosis, evaluation, treatment, habilitation, rehabilitation, transportation and other special services for persons affected by mental disorders, mental illness, mental retardation, developmental disabilities or alcohol or drug abuse.

3. The commissioner of administration, in consultation with the director, shall promulgate rules establishing procedures consistent with the usual state purchasing procedures [under] **pursuant to** chapter 34, RSMo, for the purchase of services [under] **pursuant to** this section. The commissioner may authorize the department to purchase any technical service which, in his judgment, can best be purchased direct [under] **pursuant to** chapter 34, RSMo. The commissioner shall cooperate with the department to purchase timely services appropriate to the needs of the patients, residents or clients of the department.

4. The commissioner of administration may promulgate rules authorizing the department to review, suspend, terminate, or otherwise take remedial measures with respect to contracts with vendors as defined in subsection one of this section that fail to comply with the requirements of section 210.906, RSMo.

5. The commissioner of administration may promulgate rules for a waiver of chapter 34, RSMo, bidding procedures for the purchase of services for patients, residents and clients with funds appropriated for that purpose if, in the commissioner's judgment, such services can best be purchased directly by the department.

6. No rule or portion of a rule promulgated [under] **pursuant to** the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

SECTION 1. CHILD ABUSE, CUSTODY AND NEGLECT COMMISSION CREATED, MEMBERS, TERMS — REPORTS — EXPIRATION DATE. — 1. There is hereby created within the office of the governor a "Child Abuse, Custody and Neglect Commission" which shall evaluate the laws and rules relating to child abuse, neglect, child custody and visitation and termination of parental rights and shall make recommendations on further action or legislative remedies, if any, to be taken as necessary. The commission shall review and recommend standardized guidelines for judicial review of what constitutes the best interest of the child.

2. The child abuse, custody and neglect commission shall be composed of twelve members to be appointed by the governor, including a county prosecutor, a law enforcement officer, a juvenile officer, a certified guardian ad litem, a juvenile court judge, a member of the clergy, a psychologist, a pediatrician, an educator, the chairman of the children's services commission, a division of family services designee, and one citizen of the state of Missouri, chosen to reflect the racial composition of the state, to serve four-year terms and of the members first appointed, four shall serve for a term of two years, four shall serve for a term of three years, and four shall serve for a term of four years.

3. The commission shall make its first report to the governor and the general assembly by February 1, 2002, and any subsequent reports shall be made to the governor, the chief justice of the supreme court and the general assembly as necessary.

4. All members shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

5. The office of the governor shall provide funding, administrative support, and staff for the effective operation of the commission.

6. This section shall expire on August 28, 2004.

Approved July 6, 2001

SB 58 [SB 58]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a Bird Appreciation Day.

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to "Bird Appreciation Day".

SECTION

A. Enacting clause.

9.105. Bird appreciation day observed, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.105, to read as follows:

9.105. BIRD APPRECIATION DAY OBSERVED, WHEN. — The twenty-first of March shall be designated as "Bird Appreciation Day" to be observed by elementary and secondary schools, cities, state agencies and civic organizations with activities designed to enhance the knowledge and appreciation of Missouri birds.

Approved June 27, 2001

SB 86 [HCS SB 86]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Proposed county building code shall be submitted only to voters in the area governed by the code.

AN ACT to repeal sections 64.170, 64.180 and 64.342, RSMo 2000, relating to building codes in certain counties, and to enact in lieu thereof five new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 64.170. County commissions control construction — issue building permits — appoint building commission (first and second class counties) — Jefferson County, separate provision — voter approval for building code necessary, which counties.
- 64.180. Building commission — appointment — term — code of regulations — enforcement (first and second class counties).
- 64.196. Nationally recognized building code adopted, when.
- 64.342. Park concession stands or marinas, county-operated, funds go to county park fund (Clay County).
- 1. Waiver of state's rights to revert in certain property (Scott County).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 64.170, 64.180 and 64.342, RSMo 2000, are repealed and five new sections enacted in lieu thereof, to be known as sections 64.170, 64.180, 64.196, 64.342 and 1, to read as follows:

64.170. COUNTY COMMISSIONS CONTROL CONSTRUCTION — ISSUE BUILDING PERMITS — APPOINT BUILDING COMMISSION (FIRST AND SECOND CLASS COUNTIES) — JEFFERSON COUNTY, SEPARATE PROVISION — VOTER APPROVAL FOR BUILDING CODE NECESSARY, WHICH COUNTIES. — 1. For the purpose of promoting the public safety, health and general welfare, to protect life and property and to prevent the construction of fire hazardous buildings, the county commission in all counties of the first and second classification, as provided by law, is for this purpose empowered, **subject to the provisions of subsections 3 and 4 of this section**, to adopt by order or ordinance regulations to control the construction, reconstruction, alteration or repair of any building or structure and any electrical wiring or electrical installation, **plumbing or drain laying** therein, and provide for the issuance of building permits and adopt regulations licensing persons, firms or corporations other than federal, state or local governments, public utilities and their contractors engaged in the business of electrical wiring or installations and provide for the inspection thereof and establish a schedule of permit, license and inspection fees and appoint a building commission to prepare the regulations, as herein provided.

2. For the purpose of promoting the public safety, health and general welfare, to protect life and property, the county commission in a county of the first classification having a population of more than one hundred sixty thousand but less than two hundred thousand, as provided by

law, is for this purpose empowered to adopt by order or ordinance regulations to control the construction, reconstruction, alteration or repair of any building or structure, and provide for the issuance of building permits and adopt regulations licensing contractors, firms or corporations other than federal, state or local governments, public utilities and their contractors engaged in the business of plumbing or drain laying and provide for the inspection thereof and establish a schedule of permit, license and inspection fee and appoint a building commission to prepare the regulations, as herein provided.

3. Any county which has not adopted a building code prior to August 28, 2001, pursuant to sections 64.170 to 64.200, shall not have the authority to adopt a building code pursuant to such sections unless the authority is approved by voters, subject to the provisions of subsection 4 of this section. The ballot of submission for authority pursuant to this subsection shall be in substantially the following form:

"Shall (insert name of county) have authority to create, adopt and impose a county building code?

☐ YES ☐ NO "

4. The proposal of the authority to adopt a building code shall be voted on only by voters in the area affected by the proposed code, such that a code affecting a county shall not be voted upon by citizens of any incorporated territory.

64.180. BUILDING COMMISSION — APPOINTMENT — TERM — CODE OF REGULATIONS — ENFORCEMENT (FIRST AND SECOND CLASS COUNTIES). — 1. The county commission of any county which shall exercise the authority granted under the provisions of sections 64.170 to 64.200 shall appoint a building commission consisting of five members, residents and taxpayers of the county, one of whom shall be a member of the county commission, to be selected by the county commission. The members of the commission shall serve without compensation for a term of two years. The term of the county commission member shall not extend beyond the tenure of his office.

2. Said commission shall prepare a building and electrical code of regulations under the powers granted herein, which shall be submitted to the county commission for adoption. Such code of regulations shall be in accord with standards prescribed by recognized inspection and testing laboratories and agencies **consistent with section 64.196.**

3. Before the adoption of such code of regulations, the **county** commission shall hold at least three public hearings thereon, fifteen days' notice of the time and place of which shall be published in at least two newspapers having general circulation within the county and notice of such hearings shall also be posted at least fifteen days in advance thereof in four conspicuous places in the county. The regulations adopted shall be applicable to the unincorporated territory of the county, except as otherwise provided herein, and may from time to time be amended by the county commission after hearings are held and notice given, as prescribed herein. The county commission is authorized to employ and pay the personnel necessary to enforce the regulations adopted.

64.196. NATIONALLY RECOGNIZED BUILDING CODE ADOPTED, WHEN. — **After August 28, 2001, any county seeking to adopt a building code in a manner set forth in section 64.180 shall, in creating or amending such code, adopt a current, calendar year 1999 or later edition, nationally recognized building code, as amended.**

64.342. PARK CONCESSION STANDS OR MARINAS, COUNTY-OPERATED, FUNDS GO TO COUNTY PARK FUND (CLAY COUNTY). — 1. Section 64.341 to the contrary notwithstanding, the county commission of any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand containing part of a city with a population over three hundred fifty thousand is hereby authorized to acquire, by purchase or gift, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate, in

whole or in part, concession stands or marinas within any area contiguous to the lake which is used as a public park, playground, camping site or recreation area. **No such lease or concession grant shall be for a longer term than twenty-five years.**

2. Such concession stands or marinas may offer refreshments for sale to the public using such areas and services therein relating to boating, swimming, picnicking, golfing, shooting, horseback riding, fishing, tennis and other recreational, cultural and educational uses upon such terms and under such regulations as the county may prescribe.

3. All moneys derived from the operation of concession stands or marinas shall be paid into the county treasury and be credited to a "Park Fund" to be established by each county authorized under subsection 1 of this section and be used and expended by the county commission for park purposes.

4. The provisions of this section authorizing and extending authority to counties concerning marinas shall not apply to any privately operated marina in operation prior to August 28, 2000, **except that if an operator is in default or if no bids are received during the open bid period, then the county may operate such marina for a period not to exceed a cumulative total of twenty-four months.**

SECTION 1. WAIVER OF STATE'S RIGHTS OF REVERTER IN CERTAIN PROPERTY (SCOTT COUNTY). — The state of Missouri hereby waives all rights to its possibility of reverter in the real property particularly described in the quitclaim deed in Book 279 at Pages 76-77 of the office of the recorder of deeds of Scott County.

Approved July 6, 2001

SB 87 [SB 87]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires assessment to be filed with petition for civil commitment of sexually violent predators.

AN ACT to repeal sections 632.483 and 632.486, RSMo 2000, relating to civil commitment of sexually violent predators, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

632.483. Notice to attorney general, when — contents of notice — immunity from liability, when — multidisciplinary team established — prosecutors' review committee established.

632.486. Petition filed by attorney general, when — copy of multidisciplinary team's assessment to be filed with petition.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 632.483 and 632.486, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 632.483 and 632.486, to read as follows:

632.483. NOTICE TO ATTORNEY GENERAL, WHEN — CONTENTS OF NOTICE — IMMUNITY FROM LIABILITY, WHEN — MULTIDISCIPLINARY TEAM ESTABLISHED —

PROSECUTORS' REVIEW COMMITTEE ESTABLISHED. — 1. When it appears that a person may meet the criteria of a sexually violent predator, the agency with jurisdiction shall give written notice of such to the attorney general and the multidisciplinary team established in subsection 4 of this section. Written notice shall be given:

(1) Within one hundred eighty days prior to the anticipated release from a correctional center of the department of corrections of a person who has been convicted of a sexually violent offense, except that in the case of persons who are returned to prison for no more than one hundred eighty days as a result of revocation of postrelease supervision, written notice shall be given as soon as practicable following the person's readmission to prison;

(2) At any time prior to the release of a person who has been found not guilty by reason of mental disease or defect of a sexually violent offense; or

(3) At any time prior to the release of a person who was committed as a criminal sexual psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

2. The agency with jurisdiction shall inform the attorney general and the multidisciplinary team established in subsection 4 of this section of the following:

(1) The person's name, identifying factors, anticipated future residence and offense history; and

(2) Documentation of institutional adjustment and any treatment received or refused, including the Missouri sexual offender program.

3. The agency with jurisdiction, its employees, officials, members of the multidisciplinary team established in subsection 4 of this section, members of the prosecutor's review committee appointed as provided in subsection 5 of this section and individuals contracting or appointed to perform services hereunder shall be immune from liability for any conduct performed in good faith and without gross negligence pursuant to the provisions of sections 632.480 to 632.513.

4. The director of the department of mental health and the director of the department of corrections shall establish a multidisciplinary team consisting of no more than seven members, at least one from the department of corrections and the department of **mental** health, and which may include individuals from other state agencies to review available records of each person referred to such team pursuant to subsection 1 of this section. The team, within thirty days of receiving notice, shall assess whether or not the person meets the definition of a sexually violent predator. The team shall notify the attorney general of its assessment.

5. Effective January 1, 2000, the prosecutors coordinators training council established pursuant to section 56.760, RSMo, shall appoint a five-member prosecutor's review committee composed of a cross section of county prosecutors from urban and rural counties. No more than three shall be from urban counties, and one member shall be the prosecuting attorney of the county in which the person was convicted or committed pursuant to chapter 552, RSMo. The committee shall review the records of each person referred to the attorney general pursuant to subsection 1 of this section. The prosecutor's review committee shall make a determination of whether or not the person meets the definition of a sexually violent predator. The determination of the prosecutors' review committee or any member pursuant to this section or section 632.484 shall not be admissible evidence in any proceeding to prove whether or not the person is a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the attorney general and the prosecutor's review committee.

632.486. PETITION FILED BY ATTORNEY GENERAL, WHEN — COPY OF MULTIDISCIPLINARY TEAM'S ASSESSMENT TO BE FILED WITH PETITION. — When it appears that the person presently confined may be a sexually violent predator and the prosecutor's review committee appointed as provided in subsection 5 of section 632.483 has determined by a majority vote, that the person meets the definition of a sexually violent predator, the attorney general may file a petition, in the probate division of the circuit court in which the person was convicted, or committed pursuant to chapter 552, RSMo, within forty-five days of the date the attorney general received the written notice by the agency with jurisdiction as provided in

subsection 1 of section 632.483, alleging that the person is a sexually violent predator and stating sufficient facts to support such allegation. **A copy of the assessment of the multidisciplinary team must be filed with the petition.**

Approved June 8, 2001

SB 89 [HS HCS SS SCS SB 89 & 37]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a new possession crime for anhydrous ammonia and increases penalties for current ammonia crimes.

AN ACT to repeal sections 160.261, 195.010, 195.235, 195.246 and 570.030, RSMo 2000, and to enact in lieu thereof thirteen new sections relating to drug offenses, with penalty provisions.

SECTION

- A. Enacting clause.
- 160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — need to know defined — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.
- 195.010. Definitions.
- 195.235. Unlawful delivery or manufacture of drug paraphernalia, penalty — possession is prima facie evidence of intent to violate section.
- 195.246. Possession of ephedrine, penalty — possession is prima facie evidence of intent to violate section.
- 195.417. Limit on over-the-counter sale of methamphetamine, exceptions — violations, penalty.
- 195.418. Limitations on the retail sale of methamphetamine precursor drugs — violations, penalty.
- 195.515. Copy of suspicious transaction report for certain drugs to be submitted to chief law enforcement officer, when — suspicious transaction defined — violations, penalty.
- 441.236. Disclosures required for transfer of property where methamphetamine production occurred.
- 442.606. Methamphetamine production, seller of property to disclose to buyer such production and certain criminal convictions.
- 478.009. Drug courts coordinating commission established, members, meetings — fund created.
- 537.297. Transfer of anhydrous ammonia, tamperer assumes risk — owners immune from liability and suit, when.
- 570.030. Stealing — penalties.
- 578.154. Possession of anhydrous ammonia, crime of — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.261, 195.010, 195.235, 195.246 and 570.030, RSMo 2000, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 160.261, 195.010, 195.235, 195.246, 195.417, 195.418, 195.515, 441.236, 442.606, 478.009, 537.297, 570.030 and 578.154, to read as follows:

160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — NEED TO KNOW DEFINED — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION — NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal

punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to teachers and other school district employees with a need to know. For the purposes of this [act] **chapter or chapter 167, RSMo**, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following felonies, or any act which if committed by an adult would be one of the following felonies:

- (1) First degree murder under section 565.020, RSMo;
- (2) Second degree murder under section 565.021, RSMo;
- (3) Kidnapping under section 565.110, RSMo;
- (4) First degree assault under section 565.050, RSMo;
- (5) Forcible rape under section 566.030, RSMo;
- (6) Forcible sodomy under section 566.060, RSMo;
- (7) Burglary in the first degree under section 569.160, RSMo;
- (8) Burglary in the second degree under section 569.170, RSMo;
- (9) Robbery in the first degree under section 569.020, RSMo;
- (10) Distribution of drugs under section 195.211, RSMo;
- (11) Distribution of drugs to a minor under section 195.212, RSMo;
- (12) Arson in the first degree under section 569.040, RSMo;
- (13) Voluntary manslaughter under section 565.023, RSMo;
- (14) Involuntary manslaughter under section 565.024, RSMo;
- (15) Second degree assault under section 565.060, RSMo;
- (16) Sexual assault under section 566.040, RSMo;
- (17) Felonious restraint under section 565.120, RSMo;
- (18) Property damage in the first degree under section 569.100, RSMo;
- (19) The possession of a weapon under chapter 571, RSMo;
- (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
- (23) Sexual abuse pursuant to section 566.100, RSMo;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent, or in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

4. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

5. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

6. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policy of discipline developed by each board under this section, **or when reporting to his or her supervisor or other person as mandated by state law, acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.**

7. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. Acts of violence as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020, RSMo, to any school district in which the student subsequently attempts to enroll.

8. Spanking, when administered by certificated personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to any spanking administered in a reasonable manner by any certificated school personnel pursuant to a written policy of discipline established by the board of education of the school district. Upon receipt of any reports of child abuse by the division of family services pursuant to sections 210.110 to 210.165, RSMo, which allegedly involves personnel of a school district, the division of family services shall notify the superintendent of schools of the district or, if the person named in the

alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the division of family services and take no further action. In all matters referred back to the division of family services, the division of family services shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee. The investigation shall begin no later than forty-eight hours after notification from the division of family services is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the division of family services. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

(2) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

9. The findings and conclusions of the school board shall be sent to the division of family services. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the division of family services' central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the

names of the parties allegedly involved shall not be entered into the central registry of the division of family services unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

10. Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

195.010. DEFINITIONS. — The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

(5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;

(6) "Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

(7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

(9) "Dentist", a person authorized by law to practice dentistry in this state;

(10) "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

- a. Amphetamine or any of its isomers;
- b. Any salt of amphetamine or any salt of an isomer of amphetamine; or
- c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses;

(12) "Distribute", to deliver other than by administering or dispensing a controlled substance;

(13) "Distributor", a person who distributes;

(14) "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include devices or their components, parts or accessories;

(15) "Drug-dependent person", a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

(16) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

(17) "Drug paraphernalia", all equipment, products, **substances** and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance;

In determining whether an object, **product, substance or material** is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of sections 195.005 to 195.425;

(d) The proximity of the object to controlled substances or imitation controlled substances;

(e) The existence of any residue of controlled substances or imitation controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of

anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National or local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (m) The existence and scope of legitimate uses for the object in the community;
- (n) Expert testimony concerning its use;
- (o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;**

(18) "Federal narcotic laws", the laws of the United States relating to controlled substances;

(19) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

(20) "Immediate precursor", a substance which:

(a) The state department of health has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

(b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;

(21) "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

(a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

(b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(e) The proximity of the substances to controlled substances;

(f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include

a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

(22) "Laboratory", a laboratory approved by the department of health as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(23) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug;

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice, or

(b) By a practitioner or his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24) "Marijuana", all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to *Cannabis Sativa* L., *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25) **"Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;**

(26) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

[(26)] (27) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health;

[(27)] (28) "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

[(28)] (29) "Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

(30) **"Over-the-counter sale", a retail sale licensed pursuant to chapter 144, RSMo, of a drug other than a controlled substance;**

[(29)] (31) "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity;

[(30)] (32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

[(31)] (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

[(32)] (34) "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

[(33)] (35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

[(34)] (36) "Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

[(35)] (37) "Registry number", the number assigned to each person registered under the federal controlled substances laws;

[(36)] (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

[(37)] (39) "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

[(38)] (40) "Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

[(39)] (41) "Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.235. UNLAWFUL DELIVERY OR MANUFACTURE OF DRUG PARAPHERNALIA, PENALTY — POSSESSION IS PRIMA FACIE EVIDENCE OF INTENT TO VIOLATE SECTION. — 1. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,

ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425.

2. **Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.**

3. A person who violates this section is guilty of a class D felony.

195.246. POSSESSION OF EPHEDRINE, PENALTY — POSSESSION IS PRIMA FACIE EVIDENCE OF INTENT TO VIOLATE SECTION. — 1. It is unlawful for any person to possess [ephedrine, its salts, optical isomers and salts of optical isomers or pseudoephedrine, its salts, optical isomers and salts of optical isomers] **any methamphetamine precursor drug** with the intent to manufacture **amphetamine**, methamphetamine or any of [its] **their** analogs.

2. **Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.**

3. A person who violates this section is guilty of a class D felony.

195.417. LIMIT ON OVER-THE-COUNTER SALE OF METHAMPHETAMINE, EXCEPTIONS — VIOLATIONS, PENALTY. — 1. No person shall deliver in any single over-the-counter sale more than three packages of any methamphetamine precursor drug or any combination of methamphetamine precursor drugs.

2. This section shall not apply to any product labeled pursuant to federal regulation for use only in children under twelve years of age, or to any products that the state department of health, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors.

3. Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

195.418. LIMITATIONS ON THE RETAIL SALE OF METHAMPHETAMINE PRECURSOR DRUGS — VIOLATIONS, PENALTY. — 1. The retail sale of methamphetamine precursor drugs shall be limited to:

(1) Sales in packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and

(2) For nonliquid products, sales in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

2. Any person holding a retail sales license pursuant to chapter 144, RSMo, who knowingly violates subsection 1 of this section is guilty of a class A misdemeanor.

3. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

195.515. COPY OF SUSPICIOUS TRANSACTION REPORT FOR CERTAIN DRUGS TO BE SUBMITTED TO CHIEF LAW ENFORCEMENT OFFICER, WHEN — SUSPICIOUS TRANSACTION DEFINED — VIOLATIONS, PENALTY. — 1. Any manufacturer or wholesaler who sells,

transfers, or otherwise furnishes ephedrine, pseudoephedrine or phenylpropanolamine, or any of their salts, optical isomers and salts of optical isomers, alone or in a mixture, and is required by federal law to report any suspicious transaction to the United States attorney general, shall submit a copy of the report to the chief law enforcement official with jurisdiction before completion of the sale or as soon as practicable thereafter.

2. As used in this section, "suspicious transaction" means any sale or transfer required to be reported pursuant to 21 U.S.C. 830(b)(1).

3. Any violation of this section shall be a class D felony.

441.236. DISCLOSURES REQUIRED FOR TRANSFER OF PROPERTY WHERE METHAMPHETAMINE PRODUCTION OCCURRED. — 1. In the event that any premises to be leased by a landlord is or was used as a site for methamphetamine production, the landlord shall disclose in writing to the tenant the fact that methamphetamine was produced on the premises, provided that the landlord had knowledge of such prior methamphetamine production. The landlord shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

2. A landlord shall disclose in writing the fact that any premises to be leased by the landlord either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the landlord knew or should have known of such convictions:

- (1) Creation of a controlled substance in violation of section 195.420, RSMo;
- (2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246, RSMo;
- (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233, RSMo;
- (4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045, RSMo; or
- (5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195, RSMo, or in any other provision of law.

442.606. METHAMPHETAMINE PRODUCTION, SELLER OF PROPERTY TO DISCLOSE TO BUYER SUCH PRODUCTION AND CERTAIN CRIMINAL CONVICTIONS. — 1. In the event that any parcel of real property to be sold, exchanged or transferred is or was used as a site for methamphetamine production, the seller or transferor shall disclose in writing to the buyer or transferee the fact that methamphetamine was produced on the premises, provided that the seller or transferor had knowledge of such prior methamphetamine production. The seller or transferor shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

2. A seller or transferor of any parcel of real property shall disclose in writing the fact that any premises to be sold or transferred either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the seller or transferor knew or should have known of such convictions:

- (1) Creation of a controlled substance in violation of section 195.420, RSMo;
- (2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246, RSMo;
- (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233, RSMo;

(4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045, RSMo; or

(5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195, RSMo, or in any other provision of law.

478.009. DRUG COURTS COORDINATING COMMISSION ESTABLISHED, MEMBERS, MEETINGS — FUND CREATED. — 1. In order to coordinate the allocation of resources available to drug courts throughout the state, there is hereby established a "Drug Courts Coordinating Commission" in the judicial department. The drug courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of social services; one member selected by the director of the department of mental health; one member selected by the director of the department of public safety; one member selected by the state courts administrator; and three members selected by the supreme court. The supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and treatment of persons assigned to drug courts or for operation of drug courts; secure grants, funds and other property and services necessary or desirable to facilitate drug court operation; and allocate such resources among the various drug courts operating within the state.

2. There is hereby established in the state treasury a "Drug Court Resources Fund", which shall be administered by the drug courts coordinating commission. Funds available for allocation or distribution by the drug courts coordinating commission may be deposited into the drug court resources fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the drug court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the drug court resources fund.

537.297. TRANSFER OF ANHYDROUS AMMONIA, TAMPERER ASSUMES RISK — OWNERS IMMUNE FROM LIABILITY AND SUIT, WHEN. — 1. The following words as used in this section shall have the following meanings:

- (1) "Owner", all of the following persons:
 - (a) Any person who lawfully owns anhydrous ammonia;
 - (b) Any person who lawfully owns a container, equipment or storage facility containing anhydrous ammonia;
 - (c) Any person responsible for the installation or operation of such containers, equipment or storage facilities;
 - (d) Any person lawfully selling anhydrous ammonia;
 - (e) Any person lawfully purchasing anhydrous ammonia for agricultural purposes;
 - (f) Any person who operates or uses anhydrous ammonia containers, equipment or storage facilities when lawfully applying anhydrous ammonia for agricultural purposes;
- (2) "Tamperer", a person who commits or assists in the commission of tampering;
- (3) "Tampering", transferring or attempting to transfer anhydrous ammonia from its present container, equipment or storage facility to another container, equipment or storage facility, without prior authorization from the owners.

2. A tamperer assumes the risk of any personal injury, death and other economic and noneconomic loss arising from his or her participation in the act of tampering. A tamperer or any person related to a tamperer shall not commence a direct or derivative action against any owner as it relates to the act of tampering. Owners are immune from suit by a tamperer or any person related to a tamperer and shall not be held liable for any negligent act or omission which may cause personal injury, death or other economic or noneconomic loss to a tamperer as it relates to the act of tampering.

3. The immunity from liability and suit authorized by this section is expressly waived for owners whose acts or omissions constitute willful or wanton negligence.

570.030. STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo.

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class [D] C felony. **The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.**

5. The theft of any item of property or services under subsection 3 of this section which exceeds seven hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

578.154. POSSESSION OF ANHYDROUS AMMONIA, CRIME OF — PENALTY. — 1. A person commits the crime of possession of anhydrous ammonia in a nonapproved container if he or she possesses any quantity of anhydrous ammonia in any container other than a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator or any container approved for anhydrous ammonia by the department of agriculture or the United States Department of Transportation.

2. A violation of this section is a class D felony.

Approved July 2, 2001

SB 110 [SB 110]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Corrects intersectional references in law regulating the manufacture, renovation, and sale of mattresses.

AN ACT to repeal sections 421.005, 421.007, 421.011, 421.022, 421.028, 421.031 and 421.034, RSMo 2000, relating to mattresses, and to enact in lieu thereof seven new sections relating to the same subject, with a penalty provision.

SECTION

- A. Enacting clause.
- 421.005. Definitions.
- 421.007. Bedding labels, content — removal of label prohibited — false or misleading labeling prohibited.
- 421.011. Form and size of bedding labels, approved by director — labeling requirements.
- 421.022. Bedding material grades, specifications and tolerances established by department of health — rulemaking authority.
- 421.028. Registration of bedding manufacturers, renovators and sanitizers — permits issued, procedure, fees.
- 421.031. Random testing and inspection permitted, when — penalties for violations — temporary restraining order issued, when — penalty for mislabeling.
- 421.034. Rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 421.005, 421.007, 421.011, 421.022, 421.028, 421.031 and 421.034, RSMo 2000, are repealed and seven new sections enacted in lieu thereof, to be known as sections 421.005, 421.007, 421.011, 421.022, 421.028, 421.031 and 421.034, to read as follows:

421.005. DEFINITIONS. — For purposes of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, the following terms mean:

(1) "Bedding", any mattress, box springs, foundation or studio couch made, in whole or part of, new or secondhand fabric, filling materials, or other materials, which can be used for sleeping or reclining purposes. The term "bedding" does not include any component from which bedding is made;

(2) "Department", the department of health;

(3) "Director", director of the department of health;

(4) "Manufacture", the making of bedding out of new material;

(5) "New material", any fabric, filling material, other material or article of bedding that has not been previously used for any purpose, including by-products of any textile or manufacturing process that are free from dirt, insects and other contamination;

(6) "Person", an individual, sole proprietorship, partnership, limited liability company, corporation, joint venture, association, trust and any other entity and the agents, servants and employees of any of them;

(7) "Renovator", a person that repairs, makes over, recovers, restores, sanitizes, germicidally treats, cleans or renews bedding;

(8) "Sanitizer", a person that sanitizes, germicidally treats or cleans, but does not otherwise alter, any fabric, filling material, other materials, or article of bedding for use in manufacturing or renovating bedding;

(9) "Secondhand material", any fabric, filling material, other material, or article of bedding that has been previously used for any purpose or is derived from postconsumer or industrial waste and that may be used in place of new material in manufacturing or renovating bedding;

(10) "Seller", includes a person that offers or exposes for sale, barter, trades, delivers, consigns, leases, possesses with intent to sell, or disposes of bedding in any commercial manner at the wholesale, retail or other level of trade.

421.007. BEDDING LABELS, CONTENT — REMOVAL OF LABEL PROHIBITED — FALSE OR MISLEADING LABELING PROHIBITED. — 1. All bedding manufactured, renovated, sanitized or sold within the state shall bear a clear and conspicuous label that explicitly states whether the bedding is made from all new materials, or is made in whole or in part from secondhand materials. The label on bedding made from all new materials shall be white in color and shall state "ALL NEW MATERIAL" and the label on bedding made in whole, or in part, from secondhand materials shall be yellow in color and shall state "SECONDHAND MATERIALS". Such labels shall also comply with rules issued by the department regarding label dimension, format, informational content, wording, letter size, material, means of placement and affixing to the bedding, and other relevant factors.

2. A person may not remove, deface or alter in whole, or part, a label or any statement on a label to defeat the provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

3. Labels required by sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** shall be permanently affixed.

4. No person may make a false or misleading statement on any label required pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

421.011. FORM AND SIZE OF BEDDING LABELS, APPROVED BY DIRECTOR — LABELING REQUIREMENTS. — 1. The director of the department of health shall approve the form and size of labels, the fabric of which the labels are made and the wording and statements on such labels, provided for in sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

2. Labels required pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** shall be securely attached to the article of bedding or such filling material at the site of the manufacturer, in a conspicuous place where the label can be easily examined.

3. Labels required by sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** shall have printing only on one side. No advertising matter may be placed on any label or any other printed matter not required by the provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

421.022. BEDDING MATERIAL GRADES, SPECIFICATIONS AND TOLERANCES ESTABLISHED BY DEPARTMENT OF HEALTH — RULEMAKING AUTHORITY. — The department of health may establish grades, specifications and tolerances for the kinds and qualities of materials which are used or intended to be used in the manufacture, repair or renovation of used bedding or used filling materials and may approve or adopt designations and

rules which are not in conflict with any provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, for the labeling of articles filled, with such materials.

421.028. REGISTRATION OF BEDDING MANUFACTURERS, RENOVATORS AND SANITIZERS — PERMITS ISSUED, PROCEDURE, FEES. — 1. Each bedding manufacturer, renovator or sanitizer shall register with and obtain an initial permit and permit number from the department, which permit shall be renewed annually.

2. Upon timely request by an applicant for an initial permit, the department shall recognize a valid registry, license, permit or factory number issued by another state or jurisdiction, provided that, the applicant complies with all requirements established by the department for issuance of a permit number in this state.

3. The department shall set fees for each class of initial and annual renewal permits, including, but not limited to, manufacturers, renovators and sanitizers in amounts that are reasonable and necessary to defray, but shall not substantially exceed, the cost of administering sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

421.031. RANDOM TESTING AND INSPECTION PERMITTED, WHEN — PENALTIES FOR VIOLATIONS — TEMPORARY RESTRAINING ORDER ISSUED, WHEN — PENALTY FOR MISLABELING. — 1. The department may, at its discretion, randomly conduct bedding and materials product tests and inspections of the premises of any bedding manufacturer, renovator or sanitizer for the purpose of determining whether such person complies with the provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** and the department's rules adopted pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

2. If the department finds probable cause to believe that an article of bedding violates any provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, it may, as appropriate under the circumstances, embargo, remove, recall, condemn, destroy or otherwise dispose of bedding found to violate any provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

3. The department may deny, suspend or revoke an initial or renewal permit of any person that violates any provision of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**. Each day of a continuing violation constitutes a separate violation. Any person who violates any provision of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** is guilty of a class A misdemeanor. The court may order restitution in addition to any other penalty provided in sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

4. The department may petition for a temporary restraining order to restrain a continuing violation of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** or a threat of a continuing violation of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, provided such violation or threatened violation creates an immediate threat to the public's health and safety.

5. A manufacturer, renovator or seller that knowingly attaches to bedding, or sells bedding bearing, a label stating that the product is made from all new materials, and has actual knowledge or reason to believe or suspect that such bedding is made in whole, or in part, from secondhand materials is guilty of a class A misdemeanor. Each bedding product that is found to be falsely labeled in this respect constitutes a separate violation.

421.034. RULEMAKING AUTHORITY. — 1. The department may adopt all rules necessary to implement sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, including rules regarding:

(1) Mandatory label dimensions, format, informational content, including the name, address and permit number of the manufacturer, renovator or sanitizer, working, letter size, material, placement and affixing specifications and other relevant requirements;

(2) The procedures and requirements for the application, issuance, renewal, denial, suspension and revocation of each class of permit, including, but not limited to, manufacturers, renovators, sanitizers and sellers;

(3) Adequate notice and opportunity for hearing for persons potentially subject to denial, suspension or revocation; and

(4) Any other substantive, interpretative or procedural rules necessary to implement sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

2. In setting standards and procedures pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, including those to protect the public's health and safety, the department may issue rules incorporating by reference uniform standards, norms or testing procedures that are issued, promulgated or accepted by recognized government, public or industry organizations.

Approved July 10, 2001

SB 111 [SB 111]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Department of Revenue to enter federal-state agreement to recognize disabled persons' license plates.

AN ACT to repeal section 301.142, RSMo 2000, relating to license plates for the physically disabled, and to enact in lieu thereof one new section relating to the same subject, with a penalty provision.

SECTION

A. Enacting clause.

301.142. Physically disabled, temporarily disabled, defined — plates for disabled and placard for windshield, issued when — death of disabled person, effect — lost or stolen placard, replacement of, fee — recertification and review by director, when — penalties for certain fraudulent acts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.142, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 301.142, to read as follows:

301.142. PHYSICALLY DISABLED, TEMPORARILY DISABLED, DEFINED — PLATES FOR DISABLED AND PLACARD FOR WINDSHIELD, ISSUED WHEN — DEATH OF DISABLED PERSON, EFFECT — LOST OR STOLEN PLACARD, REPLACEMENT OF, FEE — RECERTIFICATION AND REVIEW BY DIRECTOR, WHEN — PENALTIES FOR CERTAIN FRAUDULENT ACTS. — 1. As used in this section the term "physically disabled" means a natural person who is a blind person, as defined in section 8.700, RSMo, or a natural person with disabilities which limit or impair the ability to walk, as determined by a licensed physician as follows:

(1) The person cannot walk fifty feet without stopping to rest; or

(2) The person cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

(3) Is restricted by lung disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(4) Uses portable oxygen; or

(5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(6) Is severely limited in the applicant's ability to walk due to an arthritic, neurological, or orthopedic condition.

2. "Temporarily disabled person" means a physically disabled person whose disability or incapacity can be expected to last for not more than one hundred eighty days.

3. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, and by state motor vehicle laws relating to registration and licensing of motor vehicles shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "disabled" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Handicapped parking places may only be used when a physically disabled occupant is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person. No vehicle shall park in the access aisle. Such parking violation shall be an infraction. The use of a vehicle displaying a disabled license plate or windshield placard to park in a parking space designated for the disabled by a person not transporting the individual for whom the license or placard was issued shall be an infraction. Upon conviction thereof, violators shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars.

4. No additional fee shall be paid to the director of revenue for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "disabled" as prescribed in subsection 3 of this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

5. Any physically disabled person, or the parent or guardian of any such person, or any not for profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard to be hung from the rearview mirror of a parked motor vehicle. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for each removable windshield placard shall be two dollars and the removable windshield placard shall be renewed every year. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard shall be issued

to an applicant who has not been issued disabled person license plates. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, one additional temporary windshield placard shall be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to subsection 6 of this section is supplied to the director of revenue at the time of renewal. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when a physically disabled occupant is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person.

6. Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section. The physician's statement shall be on a form prescribed by the director of revenue which shall include the physician's license number. If it is the professional opinion of the physician who issues the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, this shall be noted on the statement. In such instances, the applicant shall present the physician's statement which states that the applicant's disability is permanent to the director of revenue the first time the applicant applies for license plates or a removable windshield placard. The applicant shall not be required to obtain a new physician's statement each time that the applicant applies for or renews license plates or a removable windshield placard; but, the applicant shall present a physician's statement each time the applicant applies for a temporary windshield placard or renews a temporary windshield placard. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director may, in cooperation with the boards which shall assist the director, establish a list of all physicians' names and of any other information necessary to administer this subsection within the department of revenue if the director determines that such listing is necessary to carry out the provisions of this subsection.

7. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit an affidavit stating this fact, in addition to the physician's statement. The affidavit shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this affidavit with each application for license plates.

8. The director of revenue shall enter into reciprocity agreements with other states **or the federal government** for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons [in those states].

9. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of such person shall return the plates or placards or both to the director of revenue under penalty of law. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

10. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be two dollars.

11. Beginning after September 1, 1998, and prior to August 31, 1999, the director of revenue shall authorize a one-time recertification and review of all permanent disabled person license plates and windshield placards, including physician's license numbers and related information that the director has on file pursuant to subsection 6 of this section to determine if such numbers and information are current and correct. The director shall require the presentation of a new physician's statement and other information deemed necessary by the director to administer the provisions of this section. The recertification and review shall be conducted in a manner as determined by the director.

12. Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

Approved June 13, 2001

SB 130 [HCS SB 130]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires placement of warning signs in establishments licensed to sell or serve alcoholic beverages.

AN ACT to amend chapter 311, RSMo, by adding thereto one new section relating to liquor control.

SECTION

A. Enacting clause.

311.299. Warning sign displayed, liquor licenses — violations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 311, RSMo, is amended by adding thereto one new section, to be known as section 311.299, to read as follows:

311.299. WARNING SIGN DISPLAYED, LIQUOR LICENSES — VIOLATIONS. — 1. Any person who is licensed pursuant to this chapter to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this section. Such sign shall be at least eleven inches by fourteen inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects.". The licensee shall display such sign in a conspicuous place on the licensed premises.

2. Any employee of the supervisor of liquor control may report a violation of this section to the supervisor, and the supervisor shall issue a warning to the licensee of the violation.

3. Notwithstanding the provisions of section 311.880 to the contrary, no person who violates the provisions of this section shall be guilty of a crime.

Approved June 26, 2001

SB 142 [SB 142]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows owners of different classes of motor vehicles to apply for Korean War Veteran license plates.

AN ACT to repeal section 301.464, RSMo 2000, relating to license plates, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

301.464. Korean War veteran, special license plates.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.464, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 301.464, to read as follows:

301.464. KOREAN WAR VETERAN, SPECIAL LICENSE PLATES. — Any person who served in the Korean war and was honorably discharged from such service may apply for special motor vehicle license plates, either solely or jointly, for issuance [either for any passenger motor vehicle subject to the registration fees provided in section 301.055, or for a nonlocal property carrying commercial motor vehicle licensed for a gross weight of nine thousand one pounds to twelve thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly] **for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or commercial motor vehicle licensed in excess of eighteen thousand pounds.** Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in the Korean war and status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "KOREAN WAR VETERAN" in place of the words "SHOW-ME-STATE". Such plates shall also bear an image of the Korean war service medal. The plates shall be clearly visible at night and shall be

aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

Approved June 7, 2001

SB 151 [CCS#2 HCS SCS SB 151]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits insurers from placing applicants in high risk coverage categories based on no prior insurance coverage.

AN ACT to amend chapter 379, RSMo, by adding thereto three new sections relating to motor vehicle insurance.

SECTION

- A. Enacting clause.
- 379.124. Definitions.
- 379.126. Refusal to issue policy based on the lack of prior motor vehicle coverage prohibited, when.
- 379.127. Violation deemed unfair trade practice.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 379, RSMo, is amended by adding thereto three new sections, to be known as sections 379.124, 379.126 and 379.127, to read as follows:

379.124. DEFINITIONS. — As used in sections 379.124 to 379.127, the following words and terms shall mean:

- (1) "Adverse underwriting decision", placement by an insurer or agent of a risk with a residual market mechanism, an unauthorized insurer or an insurer which specializes in substandard risks;
- (2) "Insurer", any insurance company, association or exchange authorized to issue policies of automobile insurance in the state of Missouri;
- (3) "Policy", an automobile policy providing automobile liability coverage, uninsured motorists coverage, automobile medical payments coverage or automobile physical damage coverage insuring a private passenger automobile owned by an individual or partnership.

379.126. REFUSAL TO ISSUE POLICY BASED ON THE LACK OF PRIOR MOTOR VEHICLE COVERAGE PROHIBITED, WHEN. — 1. No insurer shall refuse to write a policy for an applicant or base an adverse underwriting decision solely on the fact that the applicant has never purchased such a policy of motor vehicle insurance where the lack of motor vehicle insurance coverage is due to the applicant serving in the armed services and the applicant has not operated a motor vehicle in violation of any financial responsibility or compulsory insurance requirement within the past twelve months.

2. No insurer shall refuse to write a policy for an applicant or base an adverse underwriting decision solely on the fact that the applicant has not owned or been covered

by such a policy of motor vehicle insurance during any specified period immediately preceding the date of application where the lack of motor vehicle insurance coverage is due to the applicant serving in the armed services and the applicant has not operated a motor vehicle in violation of any financial responsibility or compulsory insurance requirement within the past twelve months. Nothing in this subsection shall prohibit an insurer from giving a discount for such an applicant that has been covered by a policy of insurance during such a specified period.

3. Nothing in this section shall prohibit an insurer from basing an adverse underwriting decision on an applicant's previous driving record where such record indicates that the applicant is a substandard risk.

4. In order to establish compliance with this section, an insurer may require any applicant claiming to meet the criteria of subsection 1 or 2 of this section to provide proof of eligibility in a manner as the insurer may prescribe.

379.127. VIOLATION DEEMED UNFAIR TRADE PRACTICE. — Violation of section 375.126 shall be unfair trade practice as defined by section 375.930 to 375.948, RSMo, and shall be subject to all of the provisions and penalties provided by such sections.

Approved July 10, 2001

SB 178 [HCS SCS SB 178]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends law relating to amending a condominium association's bylaws and prohibits tying of services.

AN ACT to repeal sections 347.189 and 448.3-106, RSMo 2000, relating to ownership of property, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 347.189. Requires filing property control affidavit in certain cities, including Kansas City.
- 448.003-106. Bylaws.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 347.189 and 448.3-106, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 347.189 and 448.3-106, to read as follows:

347.189. REQUIRES FILING PROPERTY CONTROL AFFIDAVIT IN CERTAIN CITIES, INCLUDING KANSAS CITY. — Any limited liability company that owns and rents or leases real property, **or owns unoccupied real property**, located within any home rule city with a population of more than four hundred thousand inhabitants which is located in more than one county, shall file with that city's clerk an affidavit listing the name and address of at least one person, who has management control and responsibility for the real property owned and leased or rented by the limited liability company, **or owned by the limited liability company and unoccupied.**

448.003-106. BYLAWS. — 1. The bylaws of the association shall provide for:

(1) The number of members of the executive board and the titles of the officers of the association;

(2) Election by the executive board of a president, treasurer, secretary, and any other officers of the association the bylaws specify;

(3) The qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;

(4) Which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;

(5) Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and

(6) The method of amending the bylaws **subject to the following:**

(a) **Unless the declarant otherwise agrees in writing to permit an amendment to the bylaws in accordance with paragraph (b) of this subdivision, for so long as a declarant is the owner of units representing an aggregate of ten percent or more of the units in which votes in the association are allocated, the bylaws may only be amended with the affirmative vote of at least sixty-seven percent of the unit owners of units to which votes in the association are allocated; and**

(b) **After the declarant ceases to own ten percent or more of the units to which votes in the association are allocated, the bylaws may only be amended with the affirmative vote of a majority of the unit owners of units to which the votes in the association are allocated.**

2. Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

Approved July 13, 2001

SB 179 [SB 179]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts residential mortgage brokers who post sufficient bond from conducting annual certified audits.

AN ACT to repeal section 443.851, RSMo 2000, relating to mortgage brokers, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

443.851. Audit required annually of licensee's books and accounts — scope of audit — filed with director, authority for rules — alternative to audit requirements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 443.851, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 443.851, to read as follows:

443.851. AUDIT REQUIRED ANNUALLY OF LICENSEE'S BOOKS AND ACCOUNTS — SCOPE OF AUDIT — FILED WITH DIRECTOR, AUTHORITY FOR RULES — ALTERNATIVE TO AUDIT REQUIREMENTS. — 1. At the end of the licensee's fiscal year, but in no case more than twelve months after the last audit conducted pursuant to this section and section 443.853, each residential mortgage licensee shall cause the licensee's books and accounts to be audited by a

certified public accountant not connected with such licensee. The books and records of all persons licensed pursuant to sections 443.800 to 443.893 shall be maintained on an accrual basis. The audit shall be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements in the report and must be performed in accordance with generally accepted accounting principles and generally accepted auditing standards.

2. As used in this section and section 443.853, the term "expression of opinion" includes either:

- (1) An unqualified opinion;
- (2) A qualified opinion;
- (3) A disclaimer of opinion; or
- (4) An adverse opinion.

3. If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefor shall be fully explained. An opinion, qualified as to a scope limitation, shall not be acceptable.

4. The audit report shall be filed with the director within one hundred twenty days of the audit date. The report filed with the director shall be certified by the certified public accountant conducting the audit. The director may promulgate rules regarding late audit reports.

5. A licensee may meet the requirements of this section without filing an audit report by posting and maintaining a surety bond in an amount of one hundred thousand dollars in a form specified by the director and payable to the director.

Approved July 10, 2001

SB 186 [HS HCS SCS SB 186]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows persons licensed to provide small loans to also furnish deferred presentment services.

AN ACT to repeal sections 139.050, 139.052, 139.053, 148.064, 301.600, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530, 379.316, 379.321, 379.356, 379.425, 379.888, 408.052, 408.140, 408.500 and 513.430, RSMo 2000, and section 367.100 as enacted by Senate Substitute for House Committee Substitute for House Bill No. 738, ninety-first general assembly, first regular session, relating to financial services, and to enact in lieu thereof forty-four new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 139.050. Taxes payable in installments — exemption for property taxes paid by financial institutions.
- 139.052. Taxes payable in installments may be adopted by ordinance in any county — delinquency, interest rate — payment not to affect right of taxpayer to protest — exemption for property taxes paid by financial institutions.
- 139.053. Property taxes, how paid — estimates — interest — refunds — exemption for property taxes paid by financial institutions.
- 148.064. Ordering and limit reductions for certain credits — consolidated return — transfers of credits — effect of repeal of corporation franchise tax — pass through of tax credits by S corporation bank.
- 301.600. Liens and encumbrances, how perfected — effect of on vehicles and trailers brought into state — security procedures for verifying electronic notices.
- 362.044. Stockholders' meetings — notice — business by proxy, cancellation of meetings.

- 362.105. Powers and authority of banks and trust companies.
- 362.106. Additional powers.
- 362.109. Restrictions on orders and ordinances of political subdivisions.
- 362.119. Investment in trust companies by bank, limitations — definition.
- 362.170. Unimpaired capital, defined — restrictions on loans, and total liability to any one person.
- 362.270. Organizational meeting of directors.
- 362.325. Charter amended — procedure — notice — duty of director — appeal.
- 362.335. Officers and employees — limitation on powers.
- 362.495. When payment and withdrawals may be suspended.
- 362.935. Director of finance to administer — rules and orders authorized.
- 362.942. Bank holding company with operations principally out of state, acquiring Missouri bank, limitations, severability clause, effect.
- 367.100. Definitions.
- 367.100. Definitions.
- 367.215. Failure to file audit report, effect of — surety bond posted, when.
- 367.500. Definitions.
- 367.503. Allows division of finance to regulate lending on titled property.
- 367.506. Licensure of title lenders, penalty.
- 367.509. Qualifications of applicants, fee, license issued, when.
- 367.512. Title loan requirements — liability of borrower.
- 367.515. Interest rate for title loans, maximum — fee charged — repossession charge, when.
- 367.518. Title loan agreements, contents, form.
- 367.521. Redemption of certificate of title — expiration or default, lender may proceed against collateral.
- 367.524. Records of loan agreements.
- 367.525. Notice to borrower prior to acceptance of title loan application.
- 367.527. Limitations of title lenders.
- 367.530. Safekeeping of certificates of title — liability insurance maintained, when — liability of title lender.
- 367.531. Applicability to certain transactions.
- 367.532. Violations, penalties.
- 379.316. Scope of act (section 379.017 and sections 379.316 to 379.361).
- 379.321. Rating plans to be filed with director, when — informational filings.
- 379.356. Excessive premiums and rebates prohibited.
- 379.425. Law applicable to certain classes of insurance — exceptions.
- 379.888. Definitions for sections 379.888 to 379.893 — notice to insured, when — department to notify insurers.
- 408.052. Points prohibited, exception — penalties for illegal points — violation a misdemeanor — default charge authorized, when, exceptions.
- 408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
- 408.500. Unsecured loans under five hundred dollars, licensure of lenders, interest rates and fees allowed — penalties for violations — cost of collection expenses — notice required, form.
- 408.510. Licensure of consumer installment lenders — interest and fees allowed.
- 427.220. Commissions and consideration paid to depository institutions not to be more limited than those paid to insurance agencies — definitions.
- 513.430. Property exempt from attachment — benefits from certain employee plans, exception — bankruptcy proceeding, fraudulent transfers, exception — construction of section.
 - 1. Denial of claim, disclosure by applicant not required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 139.050, 139.052, 139.053, 148.064, 301.600, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530, 379.316, 379.321, 379.356, 379.425, 379.888, 408.052, 408.140, 408.500 and 513.430, RSMo 2000, and section 367.100 as enacted by Senate Substitute for House Committee Substitute for House Bill No. 738, ninety-first general assembly, first regular session, are repealed and forty-four new sections enacted in lieu thereof, to be known as sections 139.050, 139.052, 139.053, 148.064, 301.600, 362.044, 362.105, 362.106, 362.109, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.525, 367.527, 367.530, 367.531, 367.532, 379.316, 379.321, 379.356, 379.425, 379.888, 408.052, 408.140, 408.500, 408.510, 427.220, 513.430 and 1, to read as follows:

139.050. TAXES PAYABLE IN INSTALLMENTS — EXEMPTION FOR PROPERTY TAXES PAID BY FINANCIAL INSTITUTIONS. — 1. In all constitutional charter cities in this state which have seven hundred thousand inhabitants or more, all current and all delinquent general, school and city taxes may be paid entirely, or in installments of at least twenty-five percent of the taxes, and the delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The director of revenue shall issue receipts for the partial payments.

3. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

139.052. TAXES PAYABLE IN INSTALLMENTS MAY BE ADOPTED BY ORDINANCE IN ANY COUNTY — DELINQUENCY, INTEREST RATE — PAYMENT NOT TO AFFECT RIGHT OF TAXPAYER TO PROTEST — EXEMPTION FOR PROPERTY TAXES PAID BY FINANCIAL INSTITUTIONS. — 1. The governing body of any county may by ordinance or order provide for the payment of all or any part of current and delinquent real property taxes, in such installments and on such terms as the governing body deems appropriate. Additionally, the county legislative body may limit the right to pay such taxes in installments to certain classes of taxpayers, as may be prescribed by ordinance or order. Any delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The county official charged with the duties of the collector shall issue receipts for any installment payments.

3. Installment payments made at any time during a tax year shall not affect the taxpayer's right to protest the amount of such tax payments under applicable provisions of law.

4. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

139.053. PROPERTY TAXES, HOW PAID — ESTIMATES — INTEREST — REFUNDS — EXEMPTION FOR PROPERTY TAXES PAID BY FINANCIAL INSTITUTIONS. — 1. The governing body of any county, excluding township counties, may by ordinance or order provide for the payment of all or any part of current real and personal property taxes which are owed, at the option of the taxpayer, on an annual, semiannual or quarterly basis at such times as determined by such governing body.

2. The ordinance shall provide the method by which the amount of property taxes owed for the current tax year in which the payments are to be made shall be estimated. The collector shall submit to the governing body the procedures by which taxes will be collected pursuant to the ordinance or order. The estimate shall be based on the previous tax year's liability. A taxpayer's payment schedule shall be based on the estimate divided by the number of pay periods in which payments are to be made. The taxpayer shall at the end of the tax year pay any amounts owed in excess of the estimate for such year. The county shall at the end of the tax year refund to the taxpayer any amounts paid in excess of the property tax owed for such year. No interest shall be paid by the county on excess amounts owed to the taxpayer. Any refund paid the taxpayer pursuant to this subsection shall be an amount paid by the county only once in a calendar year.

3. If a taxpayer fails to make an installment payment of a portion of the real or personal property taxes owed to the county, then such county may charge the taxpayer interest on the amount of property taxes still owed for that year.

4. Any governing body enacting the ordinance or order specified in this section shall first agree to provide the county collector with reasonable and necessary funds to implement the ordinance or order.

5. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

148.064. ORDERING AND LIMIT REDUCTIONS FOR CERTAIN CREDITS — CONSOLIDATED RETURN — TRANSFERS OF CREDITS — EFFECT OF REPEAL OF CORPORATION FRANCHISE TAX — PASS THROUGH OF TAX CREDITS BY S CORPORATION BANK. — 1. Notwithstanding any law to the contrary, this section shall determine the ordering and limit reductions for certain taxes and tax credits which may be used as credits against various taxes paid or payable by banking institutions. Except as adjusted in subsections 2, 3 and 6 of this section, such credits shall be applied in the following order until used against:

- (1) The tax on banks determined under subdivision (2) of subsection 2 of section 148.030;
- (2) The tax on banks determined under subdivision (1) of subsection 2 of section 148.030;
- (3) The state income tax in section 143.071, RSMo.

2. The tax credits permitted against taxes payable pursuant to subdivision (2) of subsection 2 of section 148.030 shall be utilized first and include taxes referenced in subdivisions (2) and (3) of subsection 1 of this section, which shall be determined without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such taxes. Where a banking institution subject to this section joins in the filing of a consolidated state income tax return under chapter 143, RSMo, the credit allowed under this section for state income taxes payable under chapter 143, RSMo, shall be determined based upon the consolidated state income tax liability of the group and allocated to a banking institution, without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such consolidated taxes as provided in chapter 143, RSMo.

3. The taxes referenced in subdivisions (2) and (3) of subsection 1 of this section may be reduced by the tax credits in subsection 5 of this section without regard to any adjustments in subsection 2 of this section.

4. To the extent that certain tax credits which the taxpayer is entitled to claim are transferable, such transferability may include transfers among such taxpayers who are members of a single consolidated income tax return, and this subsection shall not impact other tax credit transferability.

5. For the purpose of this section, the tax credits referred to in subsections 2 and 3 shall include tax credits available for economic development, low-income housing and neighborhood assistance which the taxpayer is entitled to claim for the year, including by way of example and not of limitation, tax credits pursuant to the following sections: section 32.115, RSMo, section 100.286, RSMo, and sections 135.110, 135.225, 135.352 and 135.403, RSMo.

6. For tax returns filed on or after January 1, 2001, including returns based on income in the year 2000, and after, a banking institution shall be entitled to an annual tax credit equal to one-sixtieth of one percent of its outstanding shares and surplus employed in this state if the outstanding shares and surplus exceed one million dollars, determined in the same manner as in section 147.010, RSMo. This tax credit shall be taken as a dollar-for-dollar credit against the bank tax provided for in subdivision (2) of subsection 2 of section 148.030; if such bank tax was already reduced to zero by other credits, then against the corporate income tax provided for in chapter 143, RSMo.

7. In the event the corporation franchise tax in chapter 147, RSMo, is repealed by the general assembly, there shall also be a reduction in the taxation of banks as follows: in lieu of the loss of the corporation franchise tax credit reduction in subdivision (1) of subsection 2 of section 148.030, the bank shall receive a tax credit equal to one and one-half percent

of net income as determined in this chapter. This subsection shall take effect at the same time the corporation franchise tax in chapter 147, RSMo, is repealed.

8. An S corporation bank or bank holding company that otherwise qualifies to distribute tax credits to its shareholders, shall pass through any tax credits referred to in subsection 5 of this section to its shareholders as otherwise provided for in subsection 9 of section 143.471, RSMo, with no reductions or limitations resulting from the transfer through such S corporation, and on the same terms originally made available to the original taxpayer, subject to any original dollar or percentage limitations on such credits, and when such S corporation is the original taxpayer, treating such S corporation as having not elected Subchapter S status.

9. Notwithstanding any law to the contrary, in the event the corporation franchise tax in chapter 147, RSMo, is repealed by the general assembly, after such repeal all Missouri taxes of any nature and type imposed directly or used as a tax credit against the bank's taxes, shall be passed through to the S corporation bank or bank holding company shareholder in the form otherwise permitted by law, except for the following:

(1) Credits for taxes on real estate and tangible personal property owned by the bank and held for lease or rental to others;

(2) Contributions paid pursuant to the unemployment compensation tax law of Missouri; or

(3) State and local sales and use taxes collected by the bank on its sales of tangible personal property and the services enumerated in chapter 144, RSMo.

301.600. LIENS AND ENCUMBRANCES, HOW PERFECTED — EFFECT OF ON VEHICLES AND TRAILERS BROUGHT INTO STATE — SECURITY PROCEDURES FOR VERIFYING ELECTRONIC NOTICES. — 1. Unless excepted by section 301.650, a lien or encumbrance on a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. **Subject to the provisions of section 301.620**, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. **To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620.** The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

3. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be

additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

4. If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

362.044. STOCKHOLDERS' MEETINGS — NOTICE — BUSINESS BY PROXY, CANCELLATION OF MEETINGS. — 1. Stockholders' meetings may be held at such place, within this state, as may be prescribed in the bylaws. In the absence of any such provisions, all meetings shall be held at the principal banking house of the bank or trust company.

2. An annual meeting of stockholders for the election of directors shall be held on a day which each bank or trust company shall fix by its bylaws; and if no day be so provided, then on the second Monday of January.

3. Special meetings of the stockholders may be called by the directors or upon the written request of the owners of a majority of the stock.

4. Notice of annual or special stockholders' meetings shall state the place, day and hour of the meeting, and shall be published at least ten days prior to the meeting and once a week after the first publication with the last publication being not more than seven days before the day fixed for such meeting, in some daily or weekly newspaper printed and published in the city or town in which the bank or trust company is located, and if there be none, then in some newspaper

printed and published in the county in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in an adjoining county. A written or printed copy of the notice shall be delivered personally or mailed to each stockholder at least ten but not more than fifty days prior to the day fixed for the meeting, and shall state, in addition to the place, day and hour, the purpose of any special meeting or an annual meeting at which the stockholders will consider a change in the par value of the corporation stock, the issuance of preferred shares, a change in the number of directors, an increase or reduction of the capital stock of the bank or trust company, a change in the length of the corporate life, an extension or change of its business, a change in its articles to avail itself of the privileges and provisions of this chapter, or any other change in its articles in any way not inconsistent with the provisions of this chapter. Any stockholder may waive notice by causing to be delivered to the secretary during, prior to or after the meeting a written, signed waiver of notice, or by attending such meeting except where a stockholder attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5. Unless otherwise provided in the articles of incorporation, a majority of the outstanding shares entitled to vote at any meeting represented in person or by proxy shall constitute a quorum at a meeting of stockholders; provided, that in no event shall a quorum consist of less than a majority of the outstanding shares entitled to vote, but less than a quorum shall have the right successively to adjourn the meeting to a specified date no longer than ninety days after the adjournment, and no notice need be given of the adjournment to shareholders not present at the meeting. Every decision of a majority of the quorum shall be valid as a corporate act of the bank or trust company unless a larger vote is required by this chapter.

6. (1) The stockholders of the bank or trust company may approve business by proxy and cancel any stockholders' meeting, provided:

(a) The stockholders are sent notice of such stockholders' meeting and a proxy referred to in this section;

(b) Within such proxy the stockholders are given the opportunity to approve or disapprove the cancellation of such stockholders' meeting;

(c) At least eighty percent of such bank or trust company's stock is voted by proxy; and

(d) All stockholders voting by proxy vote to cancel such stockholders' meeting.

(2) No business shall be voted on by proxy other than that expressly set out and clearly explained by the proxy material. If such stockholders' meeting is canceled by proxy, notice of such cancellation shall be sent to all stockholders at least five days prior to the date originally set for such stockholders' meeting. The corporate secretary shall reflect all proxy votes by subject and in chronological order in the board of directors' minute book. The notice for such stockholders' meeting shall state the effective date of any of the following: new directors' election, change in corporate structure and any other change requiring stockholder approval.

7. The voting shareholder or shareholders of the bank or trust company may transact all business required at an annual or special stockholders' meeting by unanimous written consent.

362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES. — 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) **Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of subsection 1 of this section where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;**

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

[(7)] (8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

[(8)] (9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

[(9)] (10) Purchase, lease, hold or convey real property for the following purposes:

(a) With the approval of the director, plots whereon there is or may be erected a building or buildings suitable for the convenient conduct of its functions or business or for customer or employee parking even though a revenue may be derived from portions not required for its own use, and as otherwise permitted by law;

(b) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business;

(c) Real property purchased at sales under judgment, decrees or liens held by it;

[(10)] (11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408, RSMo, are not applicable;

[(11)] (12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

[(12)] (13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (9) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

[(13)] (14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409, RSMo, regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

[(14)] (15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

[(15)] (16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted

to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Invest up to its legal loan limit in a building or buildings suitable for the convenient conduct of its business, including, but not limited to, a building or buildings suitable for the convenient conduct of its functions, parking for bank, trust company and leasehold employees and customers and real property for landscaping. Revenue may be derived from renting or leasing a portion of the building or buildings and the contiguous real estate; provided that, such bank or trust company has assets of at least two hundred million dollars; **and**

(2) Loan money on real estate and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105, RSMo, and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.

362.106. ADDITIONAL POWERS. — In addition to the powers authorized by section 362.105:

(1) A bank or trust company may exercise all powers necessary, proper [and] or convenient to effect any [or all] of the purposes for which the bank or trust company has been formed **and any powers incidental to the business of banking;**

(2) A bank or trust company may offer any direct and indirect benefits to a bank customer for the purpose of attracting deposits or making loans, provided said benefit is not otherwise prohibited by law, and the income or expense of such activity is nominal;

(3) Notwithstanding any other law to the contrary, every bank or trust company created under the laws of this state may, for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute, acquire and hold the voting stock of one or more corporations the activities of which are managing or owning agricultural property, subdividing and developing real property and building residential housing or commercial improvements on such property, and owning, renting, leasing, managing, operating for income and selling such property; provided that, the total of all investments, loans and guarantees made pursuant to the authority of this subdivision shall not exceed five percent of the total assets of the bank or trust company as shown on the next preceding published report of such bank or trust company to the director of finance, unless the director of the division of finance approves a higher percentage by regulation, but in no event shall such percentage exceed that allowed national banks by the appropriate regulatory authority, and, in addition to the investments permitted by this subdivision, a bank or trust company may extend credit, not to exceed the lending limits of section 362.170, to each of the corporations in which it has invested. No provision of this section authorizes a bank or trust company to own or operate, directly or through a subsidiary company, a real estate brokerage company;

(4) Notwithstanding any other law to the contrary except for bank regulatory powers in chapter 361, RSMo, powers incidental to the business of banking shall include the authority of every Missouri bank, for a fee or other consideration, and upon complying with any applicable licensing and registration law, to conduct any activity that national banks are expressly authorized by federal law to conduct, if such Missouri bank meets the prescribed standards, provided that powers conferred by this subdivision:

(a) Shall always be subject to the same limitations applicable to a national bank for conducting the activity;

(b) Shall be subject to applicable Missouri insurance law;

(c) Shall be subject to applicable Missouri licensing and registration law for the activity;

(d) Shall be subject to the same treatment prescribed by federal law; and any enabling federal law declared invalid by a court of competent jurisdiction or by the responsible federal chartering agency shall be invalid for the purposes of this subdivision; and

(e) May be exercised by a Missouri bank after that institution has notified the director of its intention to exercise such specific power at the close of the notice period and the director, in response, has made a determination that the proposed activity is not an unsafe or unsound practice and such institution meets the prescribed standards required

for the activity permitted national banks in the interpretive letter. The director may either take no action or issue an interpretive letter to the institution more specifically describing the activity permitted, and any limitations on such activity. The notice provided by the institution requesting such activity shall include copies of the specific law authorizing the power for national banks, and documentation indicating that such institution meets the prescribed standards. The notice period shall be thirty days but the director may extend it for an additional sixty days. After a determination has been made authorizing any activity pursuant to this subdivision, any Missouri bank may exercise such power as provided in subdivision (5) of this section without giving notice.

(5) When a determination is made pursuant to paragraph (e) of subdivision (4) of this section, the director shall issue a public interpretative letter or statement of no action regarding the specific power authorized pursuant to subdivision (4) of this section; such interpretative letters and statements of no action shall be made with the name of the specific institution and related identifying facts deleted. Such interpretative letters and statements of no action shall be published on the division of finance public Internet website, and filed with the office of the secretary of state for ten days prior to effectiveness. Any other Missouri bank may exercise any power approved by interpretative letter or statement of no action of the director pursuant to this subdivision; provided, the institution meets the requirements of the interpretative letter or statement of no action and the prescribed standards required for the activity permitted national banks in the interpretive letter. Such Missouri bank shall not be required to give the notice pursuant to paragraph (e) of subdivision (4) of this section. For the purposes of this subdivision and subdivision (4) of this section, "activity" shall mean the offering of any product or service or the conducting of any other activity; "federal law" shall mean any federal statute or regulation or an interpretive letter issued by the Office of the Comptroller of the Currency; "Missouri bank" shall mean any bank or trust company created pursuant to the laws of this state.

362.109. RESTRICTIONS ON ORDERS AND ORDINANCES OF POLITICAL SUBDIVISIONS. — Notwithstanding any law to the contrary, any order or ordinance by any political subdivision shall be consistent with and not more restrictive than state law and regulations governing lending or deposit taking entities regulated by the Division of Finance or the Division of Credit Unions within the Department of Economic Development.

362.119. INVESTMENT IN TRUST COMPANIES BY BANK, LIMITATIONS — DEFINITION. — Any bank organized [under] pursuant to the laws of this state may invest not to exceed five percent of its capital, surplus and undivided profits in shares of stock in any new or existing trust company or companies or any new or existing holding company or companies controlling a trust company or companies, provided that such holding company is either a bank holding company or is a holding company with the sole purpose of owning a trust company, if the direct or indirect ownership of a majority of such stock or class of stock in such [trust company or companies] entity or entities is restricted to banks authorized to do business in the state of Missouri. For purposes of this section, the term "ownership of a majority of such stock or class of stock" does not mean or infer that such owner or owners have a controlling interest or voting interest in such trust company or companies, and the term "entity" means a trust company, bank holding company or a holding company that is not a bank holding company but that has the sole purpose of owning a trust company.

362.170. UNIMPAIRED CAPITAL, DEFINED — RESTRICTIONS ON LOANS, AND TOTAL LIABILITY TO ANY ONE PERSON. — 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any

reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the aggregate which will exceed fifteen percent of the unimpaired capital of the bank or trust company if located in a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

(a) The restrictions in this subdivision shall not apply to:

a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;

b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;

c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;

d. Loans to the extent that they are insured or covered by guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not so agreed to be purchased or discounted is within the restrictive provisions of this section;

e. Obligations to any bank or trust company in the form of notes of any person, copartnership, association, corporation or limited liability company, secured by not less than a like amount of direct obligations of the United States which will mature in not exceeding five years from the date the obligations to the bank are entered into;

f. Loans to the extent they are secured by a segregated deposit account in the lending bank if the lending bank has obtained a perfected security interest in such account;

g. Evidences of debt which are direct obligations of, or which are guaranteed by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully collateralized by direct obligations of, and which are issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, a Federal Home Loan Bank, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation;

(b) The total liabilities to the bank or trust company of any individual, partnership, corporation or limited liability company may equal but not exceed thirty-five percent of the

unimpaired capital of the bank or trust company; provided, that all of the total liabilities in excess of the legal loan limit of the bank or trust company as defined in this subdivision are upon paper based upon the collateral security of warehouse receipts covering agricultural products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: first, that the actual market value of the property held in store and covered by the receipt shall at all times exceed by at least fifteen percent the amount loaned upon it; and second, that the property covered by the receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is located, and when the insurance has been used to the limit that it can be secured, then in corporations or with individuals licensed to do an insurance business by the state or country of their incorporation or residence; and all policies covering property on which the loan is made shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and provided further, that in arriving at the amount that may be loaned by any bank or trust company to any individual, partnership, corporation or limited liability company on elevator or warehouse receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of all other liabilities of the individual, partnership, corporation or limited liability company to the bank or trust company;

(c) In computing the total liabilities of any individual to a bank or trust company there shall be included all liabilities to the bank or trust company of any partnership of which the individual is a member, and any loans made for the individual's benefit or for the benefit of the partnership; of any partnership to a bank or trust company there shall be included all liabilities of and all loans made for the benefit of the partnership; of any corporation to a bank or trust company there shall be included all loans made for the benefit of the corporation and of any limited liability company to a bank or trust company there shall be included all loans made for the benefit of the limited liability company;

(d) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values, shall not be considered as money borrowed within the meaning of this section; and the purchase or discount of negotiable or nonnegotiable [installment consumer] paper which carries the full recourse endorsements or guaranty or agreement to repurchase of the person, copartnership, association, corporation or limited liability company negotiating the same, shall not be considered as money borrowed by the endorser or guarantor or the repurchaser within the meaning of this section, provided that the files of the bank or trust company acquiring the paper contain the written certification by an officer designated for this purpose by its board of directors that the responsibility of the makers has been evaluated and the acquiring bank or trust company is relying primarily upon the makers thereof for the payment of the paper;

(e) For the purpose of this section, a loan guaranteed by an individual who does not receive the proceeds of the loan shall not be considered a loan to the guarantor;

(f) Investments in mortgage-related securities, as described in the Secondary Mortgage Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g. of paragraph (a) of subdivision (1) of subsection 2 of this section, shall be subject to the restrictions of this section, provided that a bank or trust company may invest up to two times its legal loan limit in any such securities that are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization;

(2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly purchase or be interested in the purchase of any certificate of deposit, pass book, promissory note, or other evidence of debt issued by it, for less than the principal amount of the debt, without interest, for which it was issued. Every bank or trust company or person violating the provisions of this subdivision shall forfeit to the state the face value of the note or other evidence of debt so purchased;

(3) Make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of these shares, unless the security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition unless the time is extended by the finance director. Any bank or trust company violating any of the provisions of this subdivision shall forfeit to the state the amount of the loan or purchase;

(4) Knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon security having an ascertained or market value of at least fifteen percent more than the amount of the loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the state the amount of the loan;

(5) No salaried officer of any bank or trust company shall use or borrow for himself or herself, directly or indirectly, any money or other property belonging to any bank or trust company of which the person is an officer, in excess of ten percent of the unimpaired capital of the bank or trust company, nor shall the total amount loaned to all salaried officers of any bank or trust company exceed twenty-five percent of the unimpaired capital of the bank or trust company. Where loans and a line of credit are made to salaried officers, the loans and line of credit shall first be approved by a majority of the board of directors or of the executive or discount committee, the approval to be in writing and the officer to whom the loans are made, not voting. The form of the approval shall be as follows:

We, the undersigned, constituting a majority of the of the (bank or trust company), do hereby approve a loan of \$..... or a line of credit of \$....., or both, to, it appearing that the loan or line of credit, or both, is not more than 10 percent of the unimpaired capital of (bank or trust company); it further appearing that the loan (money actually advanced) will not make the aggregate of loans to salaried officers more than 25 percent of the unimpaired capital of the bank or trust company.

.....

Dated this day of, 20....

Provided, if the officer owns or controls a majority of the stock of any other corporation, a loan to that corporation shall be considered for the purpose of this subdivision as a loan to the officer. Every bank or trust company or officer thereof knowingly violating the provisions of this subdivision shall, for each offense, forfeit to the state the amount lent;

(6) Invest or keep invested in the stock of any private corporation, except as provided in this chapter.

3. Provided, that the provisions in this section shall not be so construed as in any way to interfere with the rules and regulations of any clearinghouse association in this state in reference to the daily balances; and provided, that this section shall not apply to balances due from any correspondent subject to draft.

4. Provided, that a trust company which does not accept demand deposits shall be permitted to make loans secured by a first mortgage or deed of trust on real estate to any individual, partnership, corporation or limited liability company, and to deal and invest in the interest-bearing obligations of any state, or any city, county, town, village, or political subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

5. Any officer, director, agent, clerk, or employee of any bank or trust company who willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any individual, partnership, corporation or limited liability company or by means of letters of credit,

by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation of any person, partnership, corporation or limited liability company, in excess of the amounts set out in this section, shall be deemed guilty of a class C felony.

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen percent of the capital and surplus fund of the trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities, or investing in other securities in which trust companies may invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to January 1, 1915, **and the prohibition for investments in this subsection shall not apply to investments otherwise provided by law other than subdivision (4) of subsection 3 of section 362.105.**

7. Any bank or trust company to which the provisions of subsection 2 of this section apply may continue to make loans pursuant to the provisions of subsection 2 of this section for up to five years after the appropriate decennial census indicates that the population of the city in which such bank or trust company is located has exceeded the limits provided in subsection 2 of this section.

362.270. ORGANIZATIONAL MEETING OF DIRECTORS. — Within thirty days after the date on which the annual meeting of the stockholders is held the directors elected at such meeting shall, after subscribing the oath required in section 362.250, hold a meeting at which they shall elect a **chief executive officer which the board may designate as president or another appropriate title**, from their own number, one or more vice presidents, and such other officers as are provided for by the bylaws to be elected annually.

362.325. CHARTER AMENDED — PROCEDURE — NOTICE — DUTY OF DIRECTOR — APPEAL. — 1. Any bank or trust company may, at any time, and in any amount, increase or, with the approval of the director, reduce its capital stock (as to its authorized but unissued shares, its issued shares, and its capital stock as represented by such issued shares), including a reduction of capital stock by reverse stock split, change its name, change or extend its business or the length of its corporate life, avail itself of the privileges and provisions of this chapter or otherwise change its articles of agreement in any way not inconsistent with the provisions of this chapter, with the consent of the persons holding a majority of the stock of the bank or trust company, which consent shall be obtained at an annual meeting or at a special meeting of the shareholders called for that purpose. A bank or trust company may, but shall not be obligated to, issue a certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the value of the fractional share.

2. The meeting shall be called and notice given as provided in section 362.044.

3. If, at any time and place specified in the notice, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the bank or trust company, they shall organize by choosing one of the directors chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy.

4. If, upon a canvass of the vote at the meeting, it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record.

5. When the full amount of the proposed increase has been bona fide subscribed and paid in cash to the board of directors of the bank or trust company or the change has been duly

authorized, then a statement of the proceedings, showing a compliance with the provisions of this chapter, the increase of capital actually subscribed and paid up or the change shall be made out, signed and verified by the affidavit of the president and countersigned by the cashier, or secretary, and such statement shall be acknowledged by the president and one certified copy filed in the public records of the division of finance.

6. Upon the filing of the certified copy the director shall promptly satisfy himself or herself that there has been a compliance in good faith with all the requirements of the law relating to the increase, decrease or change, and when he or she is so satisfied he or she shall issue a certificate that the bank or trust company has complied with the law made and provided for the increase or decrease of capital stock, and the amount to which the capital stock has been increased or decreased or for the change in the length of its corporate life or any other change provided for in this section. Thereupon, the capital stock of the bank or trust company shall be increased or decreased to the amount specified in the certificate or the length of the corporate life of the bank shall be changed or other authorized change made as specified in the certificate. The certificate, or certified copies thereof, shall be taken in all the courts of the state as evidence of the increase, decrease or change.

7. Provided, however, that if the change undertaken by the bank or trust company in its articles of agreement shall provide for the relocation of the bank or trust company in another community, the director shall make or cause to be made an examination to ascertain whether the convenience and needs of the new community wherein the bank desires to locate are such as to justify and warrant the opening of the bank therein and whether the probable volume of business at the new location is sufficient to ensure and maintain the solvency of the bank and the solvency of the then existing banks and trust companies at the location, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys, and, if the director, as a result of the examination, be not satisfied in the particulars mentioned or either of them, he or she may refuse to issue the certificate applied for, in which event he or she shall forthwith give notice of his or her refusal to the bank applying for the certificate, which if it so desires may, within ten days thereafter, appeal from the refusal to the state banking board.

8. All certificates issued by the director of finance relating to amendments to the charter of any bank shall be provided to the bank or trust company and one certified copy filed in the public records of the division of finance.

9. The board of directors may designate a chief executive officer, and such officer will replace the president for purposes of this section.

362.335. OFFICERS AND EMPLOYEES — LIMITATION ON POWERS. — 1. The directors may appoint and remove any cashier, secretary or other officer or employee at pleasure.

2. The cashier, secretary or any other officer or employee shall not endorse, pledge or hypothecate any notes, bonds or other obligations received by the corporation for money loaned, until such power and authority is given the cashier, secretary or other officer or employee by the board of directors, pursuant to a resolution of the board of directors, a written record of which proceedings shall first have been made; and a certified copy of the resolution, signed by the president and cashier or secretary with the corporate seal annexed, shall be conclusive evidence of the grant of this power; and all acts of endorsing, pledging and hypothecating done by the cashier, secretary or other officer or employee of the bank or trust company without the authority from the board of directors shall be null and void. **The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.**

362.495. WHEN PAYMENT AND WITHDRAWALS MAY BE SUSPENDED. — Whenever unusual withdrawals from any bank or trust company doing a banking business in this state, organized under the laws of this state are being made, or whenever in the judgment of the president and cashier or president and secretary of such bank or trust company and/or the board

of directors thereof, unusual withdrawals are about to be made, such officers and/or directors are hereby authorized to suspend payment of checks of depositors and any and all other withdrawals of assets of such bank or trust company for a period of six banking days. **The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.**

362.935. DIRECTOR OF FINANCE TO ADMINISTER — RULES AND ORDERS AUTHORIZED.

— The director of finance shall administer and carry out the provisions of sections 362.910 to 362.940 and may issue such regulations and orders as may be necessary to discharge this duty and to prevent evasion of subsection 1 of section 362.920 [or subsection 1 of section 362.925].

[362.942. BANK HOLDING COMPANY WITH OPERATIONS PRINCIPALLY OUT OF STATE, ACQUIRING MISSOURI BANK, LIMITATIONS, SEVERABILITY CLAUSE, EFFECT. — 1. No bank holding company whose bank subsidiaries' operations are principally conducted in a state other than the state of Missouri, and which acquires control of a bank located in the state of Missouri, may acquire any other banks or establish branch banks for a two-year period beginning on the date such acquisition is consummated. During such two-year period, the bank holding company shall not be treated as a bank holding company whose bank subsidiaries' operations are principally conducted in the state of Missouri for purposes of acquiring other banks or establishing branch banks.

2. Notwithstanding any law to the contrary, nothing in this section shall limit the Missouri regional interstate banking law as contained in section 362.925.

3. The provisions of this section are severable. In the event that a court of competent jurisdiction shall enter a decision finding subsection 1 of this section unconstitutional or otherwise invalid and if such decision remains in force after all appeals therefrom have been exhausted, all remaining provisions of this section shall remain in full force and effect notwithstanding such decision and such decision shall not be given retroactive effect by any court and shall not invalidate any acquisitions completed in reliance on any provisions of law prior to the date when all such appeals have been exhausted.]

[367.100. DEFINITIONS. — As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean loans for personal, family or household purposes in amounts of five hundred dollars or more;

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals, partnerships, associations, trusts, corporations, and any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action. The provisions of section 367.100(1)(b) shall not be effective until January 1, 2002.]

367.100. DEFINITIONS. — As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean:

(a) **Prior to January 1, 2002,** loans for the benefit of or use by an individual or individuals:

[(a)] **a.** Secured by a security agreement or any other lien on tangible personal property or by the assignment of wages, salary or other compensation; or

[(b)] **b.** Unsecured and whether with or without comakers, guarantors, endorsers or sureties;

(b) Beginning January 1, 2002 and thereafter, loans for personal, family or household purposes in amounts of five hundred dollars or more;

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals, partnerships, associations, trusts, corporations, and any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director [of the division of the finance of Missouri,] or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action.

367.215. FAILURE TO FILE AUDIT REPORT, EFFECT OF — SURETY BOND POSTED, WHEN.

— The director of finance shall not issue a renewal license to any person or entity licensed under the provisions of sections 367.100 to 367.200 unless the audit report is furnished as required by section 367.210. **In lieu of the requirements of sections 367.205 to 367.215, the licensee may post a surety bond in the amount of one hundred thousand dollars. The bond shall be in a form satisfactory to the director and shall be issued by a bonding or insurance company authorized to do business in the state to secure compliance with all laws relative to consumer credit. If, in the opinion of the director, the bond shall at any time appear to be inadequate, insecure, exhausted, or otherwise doubtful, additional bond in a form and with surety satisfactory to the director shall be filed within fifteen days after the director gives notice to the licensee. A licensee may, in lieu of filing any bond required under this section, provide the director with a one hundred thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any bank, trust company, savings and loan or credit union operating in Missouri.**

367.500. DEFINITIONS. — As used in sections 367.500 to [367.530] **367.533**, unless the context otherwise requires, the following terms mean:

(1) "Borrower", [the owner of any titled personal property who pledges such property to a title lender] **a person who borrows money** pursuant to a title loan agreement;

(2) "Capital", the assets of a person less the liabilities of that person. Assets and liabilities shall be measured according to generally accepted accounting principles;

(3) "Certificate of title", a state-issued certificate of title or certificate of ownership for personal property[, which certificate is deposited with a title lender as security for a title loan pursuant to a title loan agreement];

(4) "Director", the director of the division of finance of the department of economic development or its successor agency;

(5) "Person", any resident of the state of Missouri or any business entity formed under Missouri law or duly qualified to do business in Missouri;

(6) "Pledged property", personal property, ownership of which is evidenced and delineated by a [state-issued certificate of] title;

(7) "Title lending office" or **"title loan office"**, a location at which, or premises in which, a title lender regularly conducts business;

(8) "Title lender", a person [who has] qualified to [engage in the business of making] **make** title loans pursuant to sections 367.500 to [367.530 and] **367.533** who maintains at least one title lending office within [the boundaries of] the state of Missouri, which office is open for the conduct of business not less than thirty hours per week, excluding legal holidays;

(9) "Title loan agreement", a written agreement between a borrower and a title lender in a form which complies with the requirements of sections 367.500 to [367.530] **367.533**. The title lender shall [retain physical possession of the certificate of title for the entire length of the title loan agreement and for all renewals or extensions thereof, except to the extent necessary to] perfect [the title lender's] **its** lien pursuant to sections 301.600 to 301.660, RSMo, but [shall] **need** not [be required to] retain physical possession of the titled personal property at any time[. The money advanced to the borrower under a title loan agreement shall not be considered a debt of the borrower for any purpose and the borrower shall have no personal liability under a title loan agreement]; and

(10) "[Title] **Titled** personal property", any personal property **excluding property qualified to be a personal dwelling** the ownership of which is evidenced [and delineated] by a [state-issued] certificate of title.

367.503. ALLOWS DIVISION OF FINANCE TO REGULATE LENDING ON TITLED PROPERTY. — 1. The [division of finance] **director** shall [have responsibility to] administer and regulate [the provisions of] sections 367.500 to [367.530] **367.533**. The director, deputy director, other assistants and examiners, and all special agents and other employees shall keep all information [obtained from persons applying for a certificate of registration as a title lender and from all persons licensed as a title lender confidential and shall not disclose such information unless required by law or judicial order] **concerning title lenders confidential as required by sections 361.070 and 361.080, RSMo.**

2. No employee of the division of finance shall have any ownership or interest in any **title loan** business [entity engaged in the business of title loans,] or receive directly or indirectly any payment or gratuity from any such entity.

3. [In enacting rules affecting the business of title lending,] The director shall [not limit the number of title lending certificates of registration that may be issued, but shall only] issue as many [certificates of registration] **title loan licenses** as may be applied for by qualified applicants.

4. No rule or portion of a rule promulgated pursuant to the authority of sections 367.500 to [367.530] **367.533** shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

367.506. LICENSURE OF TITLE LENDERS, PENALTY. — 1. [It is unlawful for] Any person [to act] **who acts** as a title lender [unless such person has first registered and received] **without** a [certificate of registration from the division of finance to conduct such business in the manner and form provided pursuant to this act. Violators of the registration requirement are] **title loan license is** subject to both civil and criminal penalties.

2. All title loan agreements entered into by a person who acts in violation of the [registration] **licensing** requirements [provided in] **of** sections 367.500 to [367.530] **367.533**, and all title pledges accepted by such person, shall be null and void. Any borrower who enters into a title loan agreement with a person who acts in violation of the provisions of sections 367.500 to [367.530] **367.533** shall not be bound by [the terms of] such agreement, and such borrower's only liability [to such person] shall be for the return of the principal [sum borrowed plus interest at the rate set by statute for interest on judgments].

3. The attorney general may initiate a civil action against any person [required to maintain a certificate of registration as a title lender] who acts as a title lender without [first obtaining such certificate] **a title loan license**. Such action shall be commenced in the circuit court for any county [in which such person engaged in title lending. For purposes of this section, such county

shall mean any county] in which the person executed any title loan agreement and any county in which any of the pledged **titled personal** property is normally kept. The civil penalty for title lending without [first obtaining] a [certificate of registration] **title loan license** shall be [a fine of] not less than one thousand dollars and not more than five thousand dollars for each day that a person acts in violation of the [registration] **licensing** requirement. If the violation of the [registration] **licensing** requirement is intentional or knowing, the person shall be barred from applying for a [certificate of registration as a title lender] **title loan license** for a period of five years from the date of the last violation.

4. A first offense violation of the [registration] **licensing** requirement pursuant to this section shall be a class C misdemeanor. Second and subsequent offenses shall be class A misdemeanors. For purposes of jurisdiction and venue, the crime of unlawful title lending shall be deemed to have occurred in both the county in which an unlawful title loan agreement was executed and the county in which the pledged property is normally kept.

367.509. QUALIFICATIONS OF APPLICANTS, FEE, LICENSE ISSUED, WHEN. — 1. [To be eligible for] A [registration certificate as a title lender, an] **title loan license** applicant must [be either a natural person resident in the state of Missouri or a business entity formed under the laws of the state of Missouri or a business entity qualified to conduct business in the state of Missouri, and] have and maintain capital of at least seventy-five thousand dollars at all times.

2. The **license** application [for a certificate of registration] shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant[;], date of formation if a business entity[;], the address of each title loan office operated or sought to be operated[;], the name and [resident] **residential** address of the owner [or], partners [or], [if a corporation or association, of the] directors, trustees and principal officers[;], and such other pertinent information as the director may require. **A corporate surety bond in the principal sum of twenty thousand dollars per location shall accompany each license application. The bond shall be in a form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state in order to ensure the faithful performance of the obligations of the applicant and the applicant's agents and subagents in connection with title loan activities. An applicant or licensee may, in lieu of filing any bond required pursuant to this section, provide the director with an irrevocable letter of credit as defined in section 400.5-103, RSMo, in the amount of twenty thousand dollars per location, issued by any bank, trust company, savings and loan or credit union operating in Missouri in a form acceptable to the director.**

3. Every person [that has not previously been issued a certificate of registration pursuant to this section to engage in the business of title lending shall, at the time of] applying for [such certificate,] **a title loan license shall** pay [the sum of] one thousand dollars as an investigation fee[, which fee shall be used to cover the costs of investigating the application]. [A registered title lender may apply] **Applicants** for [a certificate of registration for] additional title lending [office locations, and] **licenses** shall[, at the time of making such application] pay [the sum of] one thousand dollars **per additional location** as an investigation fee[, which fee shall be used to cover the costs of investigating the title lender's additional title lending office location]. [In addition to the investigative fees required pursuant to this section,] The lender shall, beginning with the first **license** renewal [of said certificate], pay annually to the director a fee of one thousand dollars for each **licensed** location [for which a certificate of registration has been issued].

4. Each [certificate] **license** shall specify the location of the [specific] title loan office [to which it applies] and shall be conspicuously displayed therein. Before any title lending office [location] may [be changed or moved by the lender] **relocate**, the director shall approve such [change of location by endorsing the certificate or] **relocation by** mailing the licensee a new [certificate] **license** to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, by a person eligible to apply for a title [lender's certificate] **loan license**, the director shall issue a [certificate to the applicant] **license** to engage in the title loan business [under and] in accordance with [the provisions of] sections 367.500 to [367.530 for a period which shall expire the last day of December next following the date of its issuance] **367.533. The licensing year shall commence on January first and end the following December thirty-first.** Each [certificate] **license** shall be uniquely numbered and shall not be transferable or assignable. Renewal [certificates] **licenses** shall be effective for a period of one year.

367.512. TITLE LOAN REQUIREMENTS — LIABILITY OF BORROWER. — 1. [Any licensed title lender may engage in the business of making loans secured by a certificate of title as provided in sections 367.500 to 367.530.

2.] Every title loan, **and each extension or renewal of such title loan**, shall be [reduced to] **in writing [in a title loan agreement. Each title loan agreement], signed by the borrower and shall provide [as follows and shall include the following terms] that:**

(1) The title lender agrees to make a loan [of money] to the borrower, and the borrower agrees to give the title lender a security interest in unencumbered titled personal property [owned by the borrower];

(2) **Whether** the borrower consents to the title lender keeping possession of the certificate of title;

(3) The borrower shall have the [exclusive] right to redeem the certificate of title by repaying the loan [of money] in full and by complying with the title loan agreement **which may be for [an] any** agreed period of time [but in any case] not less than thirty days;

(4) The title lender shall renew the title loan agreement [for additional thirty-day periods] upon the borrower's **written** request and the payment by the borrower of any interest [and fees] due at the time of such renewal[.]. However, upon the third renewal of [the] **any** title loan agreement, and [each] **any** subsequent renewal [thereafter], the borrower shall reduce the principal [amount of the loan] by ten percent [of the original amount of the loan] until such loan is paid in full;

(5) When the [certificate of title is redeemed] **loan is satisfied**, the title lender shall release its [security interest in the titled personal property] **lien** and return the [personal property certificate of] title to the borrower;

(6) [Upon failure of the borrower to redeem the certificate of title at the end of the original thirty-day agreement period, or at the end of any agreed-upon thirty-day renewal or renewals thereof, the borrower shall deliver the titled personal property to the title lender at the location specified in the agreement, which location shall be no more than fifteen miles from the title lender's office where the title loan agreement was executed;

(7)] If the borrower [fails to deliver the titled personal property to the title lender] **defaults**, the title lender shall be allowed to take possession of the titled personal property **after compliance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo;**

[(8)] (7) Upon obtaining possession of the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo**, the title lender shall be authorized to sell the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo**, and to convey to the buyer thereof good title thereto[, subject to the waiting periods provided for in section 367.521; and

(9) A borrower who does not redeem a pledged certificate of title shall have no personal liability to the title lender to repay principal, interest or expenses incurred in connection with the title loan, and that the title lender shall look solely to the titled personal property for satisfaction of the amounts owed under the title loan agreement].

[3.] **2.** Any borrower who obtains a title loan [from a title lender] under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property, shall be personally liable to the title lender for the full amount stated in the title loan agreement.

367.515. INTEREST RATE FOR TITLE LOANS, MAXIMUM — FEE CHARGED — REPOSSESSION CHARGE, WHEN. — [1. The maximum rate of interest that a title lender shall contract for and receive for making and carrying any title loan authorized by sections 367.500 to 367.530 shall not exceed one and one-half percent per month on the amount of such loans. Title lenders may charge, contract for, and receive a fee, which shall not be deemed interest, to defray the ordinary cost of operations. Such fee may include the title lenders cost for investigating the title, appraisal of the titled personal property, insuring the titled personal property while in the possession of the borrower, documenting and recording the transactions, perfecting a security interest in the titled personal property, storage of titled personal property in the possession of the title lender and for all other services and costs of the lender associated with such transactions. A pro rata portion of the foregoing fee shall be fully earned, due and owing each day that the title loan agreement remains unpaid after maturity. Such interest and fees shall be deemed to be earned, due and owing as of the date of the title loan agreement and on the date of any subsequent renewal thereof.

2.] A title lender [may assess and collect a repossession charge if the borrower fails to deliver the titled personal property pursuant to the terms of the title loan agreement. This charge shall equal the actual expense incurred by the title lender to repossess the titled personal property, including attorney's fees, but shall be no greater than five hundred dollars for any single article of titled personal property] **shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140, RSMo.**

367.518. TITLE LOAN AGREEMENTS, CONTENTS, FORM. — 1. Each title loan agreement shall disclose the following:

(1) All disclosures required [to be made under] **by the federal Truth in Lending Act and regulation Z;**

(2) That the transaction is a loan secured by the pledge of titled personal property **and, in at least 10-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property;**

(3) The [identity of the parties to the agreement, including the] name, business address, telephone number and certificate number of the title lender, and the name[, resident] **and residential** address [and identification] of the borrower;

(4) The monthly interest rate to be charged;

(5) [The allowable fees and expenses to be charged to the borrower upon redemption of the certificate of title;

(6) The date on which the borrower's exclusive right to redeem the pledged certificate of title pursuant to section 367.521 expires] **A statement which shall be in at least 10-point bold type, separately acknowledged by the signature of the borrower and reading as follows: You may cancel this loan without any costs by returning the full principal amount to the lender by the close of the lender's next full business day;**

[(7)] (6) The location where the titled personal property [is to] **may** be delivered if the [certificate of title] **loan** is not [redeemed] **paid** and the hours such location is open for receiving such deliveries; and

[(8)] (7) Any additional disclosures deemed necessary by the [division of finance] **director** or required pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The division of finance is directed to [promulgate] **draft** a form [of disclosure] to be used in title loan [agreements] **transactions**. Use of [the] **this** form [promulgated by the division of

finance] is not mandatory[.]; however, use of such form, properly completed, shall satisfy the disclosure provisions of this section.

367.521. REDEMPTION OF CERTIFICATE OF TITLE — EXPIRATION OR DEFAULT, LENDER MAY PROCEED AGAINST COLLATERAL. — 1. [Except as otherwise provided in sections 367.500 to 367.530,] The borrower shall be entitled to redeem the [certificate of title upon] **security by** timely satisfaction of [all outstanding obligations agreed to in] **the terms of the** title loan agreement. Upon expiration or default of a title loan agreement [and of the renewal or renewals of the agreement, if any, the title lender shall retain possession of the certificate of title for at least twenty days. If the borrower fails to redeem the certificate of title before the lapse of the twenty-day holding period, the pledgor shall thereby forfeit all right, title and interest in and to the titled personal property to the title lender, who shall thereby acquire an absolute right of title to the titled personal property, and the title lender shall have the sole right and authority to sell or dispose of the pledged property pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The title lender has, upon default by the pledgor of any obligation pursuant to the title loan agreement, the right to take possession of the titled personal property.

3. In taking possession, the title pledge lender or the lender's agent may proceed without judicial process if this can be done without breach of the peace; or, if necessary, may proceed by action to obtain judicial process. Any repossession conducted without the knowledge and cooperation of the owner shall comply with the requirements of subsection 12 of section 304.155, RSMo.

4. If the title lender takes possession of the titled personal property, either personally or through its agent, at any time during the twenty-day holding period provided herein, the title lender shall retain possession, either personally or through its agent, of the titled personal property until the expiration of the twenty-day holding period.

5. If during the twenty-day holding period, the borrower redeems the certificate of title by paying all outstanding principal, interest, and other fees stated in the title pledge agreement, and, if applicable, repossession fees and storage fees, the borrower shall be given possession of the certificate of title and the titled personal property, without further charge.

6. If the borrower fails to redeem the titled personal property during the twenty-day holding period, the borrower shall thereby forfeit all right, title, and interest in and to the titled personal property and certificate of title, to the title lender, who shall thereby acquire an absolute right of title and ownership to the titled personal property. The title lender shall then have the sole right and authority to sell or dispose of the unredeemed titled personal property.

7. If the borrower loses the title pledge agreement or other evidence of the transaction, the borrower shall not thereby forfeit the right to redeem the pledged property, but may promptly, before the lapse of the redemption date, make affidavit for such loss, describing the pledged property, which affidavit shall, in all respects, replace and be substituted for the lost evidence of the transaction], **the title lender may proceed against the collateral pursuant to chapter 400, RSMo, and with sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo.**

367.524. RECORDS OF LOAN AGREEMENTS. — 1. Every title lender shall keep a consecutively numbered record of each [and every] title loan agreement executed, which number shall be placed on the corresponding title loan agreement itself. Such record shall include the following:

- (1) A clear and accurate description of the titled personal property, including its vehicle identification or serial number, license plate number, [if applicable,] year, make, model, type, and color;
- (2) The date of the title loan agreement;
- (3) The amount of the loan [made pursuant to the title loan agreement];
- (4) The date of maturity of the loan; and

(5) The name, [race, sex, height,] date of birth, Social Security number, [resident] **residential** address, and the type [and unique identification number] of [the] photo identification of the borrower.

2. The title lender shall [make a good and useable] photocopy [of] the photo identification of the borrower or shall take an instant photograph of the borrower, [which] **and shall attach such** photocopy or photograph [shall be attached] to the lender's copy of the title loan agreement **and all renewals.**

3. The borrower shall sign the title loan agreement and shall be provided with a copy of such agreement. The title lender, or the lender's employee or agent shall also sign the title loan agreement. **The title lender shall provide each customer with and retain a photocopy of the pledged title at the time the note is signed.**

4. The title lender shall keep the numbered records and copies of its title loan agreements, **including a copy of the notice required pursuant to subsection 1 of section 367.525,** for a period of no less than two years from the date of the closing of the last transaction reflected therein. [The date of the last transaction, as used in this subsection, means in the case where a borrower redeemed the pledged certificate of title, the date of such redemption, and in the case where a borrower does not redeem the pledged certificate of title, the date on which the title lender sells the titled personal property.] A title lender who ceases engaging in the business of making title loans shall keep these records for [a period of no less than] **at least** two years from the date the lender ceased engaging in the business. **A title lender must notify the director to request an examination at least ten days before ceasing business.**

5. The records required [to be maintained] by this section shall be made available for inspection by any employee of the division of finance upon request during ordinary business hours without warrant or court order.

367.525. NOTICE TO BORROWER PRIOR TO ACCEPTANCE OF TITLE LOAN APPLICATION. — 1. Before accepting a title loan application, the lender shall provide the borrower the following notice in at least 10-point bold type and receipt thereof shall be acknowledged by signature of the borrower:

(Name of Lender)

NOTICE TO BORROWER

(1.) Your automobile title will be pledged as security for the loan. If the loan is not repaid in full, including all finance charges, you may lose your automobile.

(2.) This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

I have read the above "NOTICE TO BORROWER" and I understand that if I do not repay this loan that I may lose my automobile.

Borrower

Date

2. If the loan is secured by titled personal property other than an automobile, the lender shall either provide a form with the proper word describing the security or else shall strike the word "automobile" from the three places it appears, write or print in the type of titled personal property serving as security and have the customer initial all three places.

3. The title lender shall post in a conspicuous location in each licensed office, in at least 14-point bold type the maximum rates that such title lender is currently charging on any loans made and the statement:

NOTICE:

Borrowing from this lender places your automobile at risk. If this loan is not repaid in full, including all finance charges, you may lose your automobile.

This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

4. When making or negotiating loans, the title lender shall take into consideration in determining the size and duration of a loan contract the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract.

367.527. LIMITATIONS OF TITLE LENDERS. — 1. A title lender shall not:

(1) Accept a pledge from a person under eighteen years of age[,] or from anyone who appears to be intoxicated;

(2) [Make any agreement giving the title lender any recourse against the borrower other than the title lender's right to take possession of the titled personal property and certificate of title upon the borrower's default or failure to redeem, sell or otherwise dispose of the titled personal property in accordance with provisions of this act, except as otherwise expressly permitted in sections 367.500 to 367.530;

(3) Enter into a title agreement in which the amount of money loaned in consideration of the pledge of any single certificate of title] **make a loan which** exceeds five thousand dollars;

[(4)] (3) Accept any waiver[, in writing or otherwise,] of any right or protection [accorded] of a borrower [pursuant to sections 367.500 to 367.530];

[(5)] (4) Fail to exercise reasonable care to protect from loss or damage certificates of title or titled personal property in the physical possession of the title lender;

[(6)] (5) Purchase titled personal property in the operation of its business;

[(7)] (6) Enter into a title loan agreement unless the borrower presents clear title [to titled personal property] at the time that the loan is made [and such title is retained in the physical possession of the title pledge lender; or];

[(8)] (7) Knowingly violate any provision of sections 367.500 to [367.530] **367.533** or any rule promulgated [pursuant to authority granted by this act] **thereunder**;

(8) **Violate any provision of sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo; or**

(9) **Store repossessed titled personal property at a location more than fifteen miles from the office where the title loan agreement was executed.**

2. If a title lender enters into a transaction contrary to this section, [any lien obtained by the title lender] **the loan and the lien** shall be void.

367.530. SAFEKEEPING OF CERTIFICATES OF TITLE — LIABILITY INSURANCE MAINTAINED, WHEN — LIABILITY OF TITLE LENDER. — 1. Every [person engaged in the business of title lending] **title lender** shall [provide] **maintain** a [safe] **fireproof** place for the [keeping of the] pledged certificates of title and **a safe place** for [the keeping of] pledged property delivered to **or repossessed by** the title lender [pursuant to the terms of any title loan agreement].

2. Every [person engaged in the business of title lending] **title lender** shall maintain premises liability insurance in an amount of not less than one million dollars per occurrence for the benefit of customers and employees [who visit or work at the title lending office], which insurance shall provide coverage for, among other risks, injuries caused by the criminal acts of third parties.

3. A [person engaged in the business of title lending] **title lender** shall **not** be [immune from liability] **liable** for any loss or injury occasioned or caused by the use of pledged property unless the pledged property is actually in the **title lender's** possession [of the title pledge lender].

4. A [person engaged in the business of title lending] **title lender** shall be strictly liable to the borrower for any loss to pledged property in the **title lender's** possession [of the title lender, but only if the borrower makes a redemption of the pledged property prior to the expiration of the twenty-day holding period provided in section 367.521].

367.531. APPLICABILITY TO CERTAIN TRANSACTIONS. — The provisions of sections 408.552 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo, are applicable to all transactions pursuant to sections 367.500 to 367.533.

367.532. VIOLATIONS, PENALTIES. — 1. Any title lender which fails, refuses or neglects to comply with sections 367.500 to 367.533, sections 408.551 to 408.557, RSMo, sections 408.560 to 408.562, RSMo, or any laws relating to title loans or commits any criminal act may have its license suspended or revoked by order of the director after a hearing before said director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the title lender at least ten days prior to the hearing.

2. Whenever it shall appear to the director that any title lender is failing, refusing or neglecting to make a good faith effort to comply with the provisions of sections 367.500 to 367.533, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

379.316. SCOPE OF ACT (SECTION 379.017 AND SECTIONS 379.316 TO 379.361). — 1. Section 379.017 and sections 379.316 to 379.361 apply to insurance companies incorporated pursuant to sections 379.035 to 379.355, section 379.080, sections 379.060 to 379.075, sections 379.085 to 379.095, sections 379.205 to 379.310, and to insurance companies of a similar type incorporated pursuant to the laws of any other state of the United States, and alien insurers licensed to do business in this state, which transact fire and allied lines, marine and inland marine insurance, to any and all combinations of the foregoing or parts thereof, and to the combination of fire insurance with other types of insurance within one policy form at a single premium, on risks or operations in this state, except:

- (1) Reinsurance, other than joint reinsurance to the extent stated in section 379.331;
- (2) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured pursuant to marine, as distinguished from inland marine, insurance policies;
- (3) Insurance against loss or damage to aircraft;
- (4) All forms of motor vehicle insurance; and
- (5) All forms of life, accident and health, and workers' compensation insurance.

2. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the director, or as established by general custom of the business, as inland marine insurance.

3. Commercial property and commercial casualty insurance policies [which meet the exemption requirements of section 379.362 shall be exempt from those insurance laws of this state which concern the regulation by the director of the department of insurance of the policy language, policy provisions or the format of such policies, or the regulation of the rates used to calculate the amount of premium charged] **are subject to rate and form filing requirements as provided in section 379.321.**

379.321. RATING PLANS TO BE FILED WITH DIRECTOR, WHEN — INFORMATIONAL FILINGS. — 1. Every insurer shall file with the director, except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section [and as to inland marine risks which by regulation or general custom of the business are not written according to manual rates or rating plans], every manual of classifications, rules, underwriting rules and rates,

every rating plan and every modification of the foregoing which it uses and the policies and forms to which such rates are applied. Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the director to accept such filings on its behalf, provided that nothing contained in section 379.017 and sections 379.316 to 379.361 shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the director to accept such filings on its behalf. Filing with the director by such insurer or licensed rating organization within ten days after such manuals, rating plans or modifications thereof or policies or forms are effective shall be sufficient compliance with this section.

2. Except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section and [as to contracts or policies for] inland marine risks [as to which filings are not required] **as provided in subsection 1 of this section**, no insurer shall make or issue a policy or contract except pursuant to filings which are in effect for that insurer or pursuant to section 379.017 and sections 379.316 to 379.361. Any rates, rating plans, rules, classifications or systems, in effect on August 13, 1972, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

3. Upon the written application of the insured, stating his or her reasons therefor, filed with the insurer, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

4. Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the director to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) That any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the director and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) That any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the director:

(a) Requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty days after receipt of such request, either:

- a. To make such filing as a rating organization filing;
- b. To make such filing on an agency basis solely on behalf of the requesting member; or
- c. To decline the request of such member; and

(b) Excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

5. Any change in a filing made pursuant to this section during the first six months of the date such filing becomes effective shall be approved or disapproved by the director within ten days following the director's receipt of notice of such proposed change.

6. [Commercial property and commercial casualty insurance policies which meet the exemption requirements of section 379.362 shall adhere to the filing requirements of this section, provided however, that the filings for such policies shall be for informational purposes only. Therefore, all manuals of classifications, rules, underwriting rules, rates, rate plans and modifications, policy forms and other forms to which such rates are applied, shall be filed with the director for policies which meet the exemption requirements of section 379.362. Such filings shall be made with the director within thirty days after such materials are used by the insurer, but such policies and rates need not be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual policies or the rates related thereto where the original policy forms, manuals, rates and rules for the

insurance plan or program to which such individual policies conform have already been filed with the director.] **Commercial property and commercial casualty requirements differ as follows:**

(1) All commercial property and commercial casualty insurance rates, rate plans, modifications, and manuals of classifications, where appropriate, shall be filed with the director for informational purposes only. Such rates are not to be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual rates where the original manuals, rates and rules for the insurance plan or program to which such individual policies conform have already been filed with the director;

(2) If an insurer will only renew a commercial casualty or commercial property insurance policy with an increase in premium of twenty-five percent or more, a "premium alteration requiring notification" notice must be mailed or delivered by the insurer at least sixty days prior to the expiration date of the policy, except in the case of an umbrella or excess policy the coverage of which is contingent on the coverage of an underlying policy of commercial property or casualty insurance, in which case notice of an increase in premium of twenty-five percent or more shall be mailed or delivered at least thirty days prior to the expiration date of the policy. Such notice shall be mailed or delivered to the agent of record and to the named insured at the address shown in the policy. If the insurer fails to meet this notice requirement, the insured shall have the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. This provision does not apply if the insurer has offered to renew a policy without such an increase in premium or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. For purposes of this section, "premium alteration requiring notification" means an annual increase in premium of twenty-five percent or more, exclusive of premium increases due to a change in the operations of the insured which increases either the hazard insured against or the individual loss characteristics, or due to a change in the magnitude of the exposure basis, including, without limitation, increases in payroll or sales. For commercial multiperil policies, no "premium alteration requiring notification" shall be required unless the increase in premium for all of a policyholder's policies taken together amounts to a twenty-five percent or more annual increase in premium;

(3) Commercial property and commercial casualty policy forms shall be filed with the director as provided pursuant to subsection 1 of this section. However, if after review, it is determined that corrective action must be taken to modify the filed forms, the director shall impose such corrective action on a prospective basis for new policies. All policies previously issued which are of a type that is subject to such corrective action shall be deemed to have been modified to conform to such corrective action retroactive to their inception date;

(4) For purposes of this section, "commercial casualty" means "commercial casualty insurance" as defined in section 379.882. For purposes of this section, "commercial property" means property insurance, which is for business and professional interests, whether for profit, nonprofit or public in nature which is not for personal, family or household purposes, but does not include title insurance;

(5) Nothing in this subsection shall limit the director's authority over excessive, inadequate or unfairly discriminatory rates.

379.356. EXCESSIVE PREMIUMS AND REBATES PROHIBITED. — 1. No insurer, broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of section 379.017 and sections 379.316 to 379.361. No insurer or employee thereof, and no broker or agent shall pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate,

discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings. No insured named in any policy of insurance shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of, nor permitting the regulation of the payment of, commissions or other compensation to duly licensed agents and brokers; nor as prohibiting, or permitting the regulation of, any insurer from allowing or returning to its participating policyholders or members, dividends or savings.

2. An insurer or insurance producer, agent or broker may charge additional incidental fees for premium installments, late payments, policy reinstatements, or other similar services specifically provided for by law or regulation. Such fees shall be disclosed to the applicant or insured in writing.

379.425. LAW APPLICABLE TO CERTAIN CLASSES OF INSURANCE — EXCEPTIONS. — 1. Sections 379.420 to 379.510 apply to casualty insurance, including fidelity, surety and guaranty bonds, and to all forms of motor vehicle insurance, on risks or operations in this state, except:

(1) Reinsurance, other than joint reinsurance to the extent stated in section 379.460 and subsection 2 of section 379.430;

(2) Insurance against workers' compensation liability;

(3) Accident and health insurance;

(4) Insurance against loss of or damage to aircraft, or against liability, other than employers' liability, arising out of the ownership, maintenance or use of aircraft.

2. Commercial casualty insurance policies [which meet the exemption requirements of section 379.362] shall be exempt from [those insurance laws of this state which concern the regulation by the director of insurance of the policy language, policy provisions or the format of such policies, or regulation of the rates used to calculate the amount of premium charged] **the provisions of sections 379.420 to 379.510 to the extent permitted pursuant to subsection 6 of section 379.321.**

379.888. DEFINITIONS FOR SECTIONS 379.888 TO 379.893 — NOTICE TO INSURED, WHEN — DEPARTMENT TO NOTIFY INSURERS. — 1. As used in sections 379.888 to 379.893, the following terms mean:

(1) "'A' rated risk", any insurance coverage for which rates are individually determined based upon judgment because neither a rate service organization nor the insurer has yet established a manual rate based upon experience, except that if a rate service organization or the insurer acquires sufficient experience to establish, or if the insurer itself has, a manual rate for such coverage, then such coverage shall no longer be considered an "A" rated risk for each insurer;

(2) "Base rate", the rate designed to reflect the average aggregate experience of a particular market, prior to adjustment for individual risk characteristics resulting from application of any rating plan;

(3) "Classification", a grouping of insurance risks according to a classification system used by an insurer;

(4) "Classification system", a schedule of classifications and a rule or set of rules used by an insurer for determining the classification applicable to an insured;

(5) "Commercial casualty insurance", casualty insurance for business or nonprofit interests which is not for personal, family, or household purposes;

(6) "Director", the director of the department of insurance;

(7) "Rate", a monetary amount applied to the units of exposure basis assigned to a classification and used by an insurer to determine the premium for an insured;

(8) "Rating plan", a rule or set of rules used by an insurer to calculate premium for an insured, and the parameter values used in such calculation, after application of classification premium rates to units of exposure; and

(9) "Rating system", a collection of rating plans to be used by an insurer, rules for determining which rating plans are applicable to an insured, a classification system, and other rules used by an insurer for determining contractual consideration for insured.

2. [Every filing of commercial casualty insurance premium rates, rating plans or rating systems by an insurer or rating organization shall be submitted to the director for review prior to becoming effective if it produces an increase or decrease exceeding twenty-five percent annually from changes in any:

- (1) Base rates;
- (2) Rating basis;
- (3) Rating plans;
- (4) Manual rules;
- (5) Territorial definitions; or
- (6) Combination of such rating system components of subdivisions (1) to (5) of this subsection.

3.] Nothing in this section applies to premium increases or decreases from:

- (1) Change in hazard of the insured's operation;
- (2) Change in magnitude of the exposure basis for the insured, including, without limitation, changes in payroll or sales;
- (3) "A" rated risks; or
- (4) Commercial casualty insurance that is exempt pursuant to section 379.362].

[4.] **3.** Any renewal notice of a commercial casualty insurance policy as defined in section 379.882 for any Missouri risk or portion thereof which would have the effect of increasing the premium charged to the insured due to a change in any scheduled rating factor applied to the policy during the previous policy period shall contain or be accompanied by a notice to the insured informing the insured that any inquiry by the insured concerning the change may be directed to the agent of record or directly to the insurer. When any insured makes a request for information pursuant to this subsection, the insurer, directly or through the insurer's agent, shall inform the insured in writing in terms sufficiently clear and specific of the basis for any reduction in a scheduled rating credit or increase in a scheduled rating debit which is applied to the policy. Evidence supporting the basis for any scheduled rating credit or debit shall be retained by the insurer for the policy term plus two calendar years pursuant to section 374.205, RSMo. The department of insurance shall notify commercial casualty insurers of the requirements of this section by bulletin.

4. Any renewal involving a "premium alteration requiring notification" as defined in subsection 6 of section 379.321, shall be handled pursuant to the requirements of that subsection.

408.052. POINTS PROHIBITED, EXCEPTION — PENALTIES FOR ILLEGAL POINTS — VIOLATION A MISDEMEANOR — DEFAULT CHARGE AUTHORIZED, WHEN, EXCEPTIONS. —

1. No lender shall charge, require or receive, on any residential real estate loan, any points or other fees of any nature whatsoever, excepting insurance, including insurance for involuntary unemployment coverage, and a one-percent origination fee, whether from the buyer or the seller or any other person, except that the lender may charge bona fide expenses paid by the lender to any other person or entity except to an officer, employee, or director of the lender or to any business in which any officer, employee or director of the lender owns any substantial interest for services actually performed in connection with a loan. In addition to the foregoing, if the loan is for the construction, repair, or improvement of residential real estate, the lender may charge a fee not to exceed one percent of the loan amount for inspection and disbursement of the proceeds of the loan to third parties. Notwithstanding the foregoing, the parties may contract for

a default charge for any installment not paid in full within fifteen days of its scheduled due date. The restrictions of this section shall not apply:

(1) To any loan which is insured or covered by guarantee made by any department, board, bureau, commission, agency or establishment of the United States, pursuant to the authority of any act of Congress heretofore or hereafter adopted; and

(2) To any loan for which an offer or commitment or agreement to purchase has been received from and which is made with the intention of reselling such loan to the Federal Housing Administration, Farmers Home Administration, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or to any successor to the above-mentioned organizations, to any other state or federal governmental or quasi-governmental organization; and

(3) Provided that the 1994 reenactment of this section shall not be construed to be action taken in accordance with Public Law 96-221, Section 501(b)(4). Any points or fees received in excess of those permitted under this section shall be returned to the person from whom received upon demand.

2. Notwithstanding the language in subsection 1 of this section, a lender may pay to an officer, employee or director of the lender, or to any business in which such person has an interest, bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan, provided:

(1) Such services are individually listed by amount and payee on the loan-closing documents; and

(2) Such lender may use the preemption of Public Law 96-221, Section 501 with respect to the residential real estate loan in question. When fees charged need not be disclosed in the annual percentage rate required by Title 15, U.S.C. Sections 1601, et seq., and regulations thereunder because such fees are [deminimus] **de minimis** amounts or for other reasons, such fees need not be included in the annual percentage rate for state examination purposes.

3. **The lender may charge and collect bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan as provided in subsection 2 of this section; however, the lender's board of directors shall determine whether such bona fide fees shall be paid to the lender or businesses related to the lender in subsection 2 of this section, but may allow current contractual relationships to continue for up to two years.**

4. If any points or fees are charged, required or received, which are in excess of those permitted by this section, or which are not returned upon demand when required by this section, then the person paying the same points or fees or his or her legal representative may recover twice the amount paid together with costs of the suit and reasonable attorney's fees, provided that the action is brought within five years of such payment.

[4.] 5. Any lender who knowingly violates the provisions of this section is guilty of a class B misdemeanor.

408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION. — 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200, RSMo, and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed fifty dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) **If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;**

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

[(5)] (6) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than fifteen dollars;

[(6)] (7) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

[(7)] (8) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan. This section applies to nonprecomputed loans only and does not affect any other sections.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.500. UNSECURED LOANS UNDER FIVE HUNDRED DOLLARS, LICENSURE OF LENDERS, INTEREST RATES AND FEES ALLOWED — PENALTIES FOR VIOLATIONS — COST OF COLLECTION EXPENSES — NOTICE REQUIRED, FORM. — 1. Lenders [exclusively], other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans [under] of five hundred dollars [and who are not otherwise registered under this chapter shall be registered with] or less shall obtain a license

from the director of the division of finance [upon the payment of]. An annual [registration] license fee of three hundred dollars **per location shall be required**. The license year shall commence on January first each year and the license fee may be prorated for expired months. [Such lenders shall not charge, contract for or receive on such loans interest or any fee of any type or kind whatsoever which exceed the approved rate as provided in this subsection. Lenders shall file a rate schedule with the director who, upon review, shall approve rates comparable with those lawfully charged in the marketplace for similar loans. In determining marketplace interest rates, the director shall consider the appropriateness of rate requests made by lenders and rates allowed on similar loans in the states contiguous to Missouri. If the director takes no action upon a filed rate schedule within thirty days of receipt, then it shall be deemed approved as filed. The director, on January first and July first of each year, shall consider the filing of new interest rate schedules to reflect changes in the marketplace. The director may promulgate rules regarding the computation and payment of interest, contract statements, payment receipts and advertising for loans made under the provisions of this section.] The provisions of this section shall not apply to pawnbroker loans [and small], **consumer credit** loans as authorized under chapter 367, RSMo, **nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.**

2. **Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140.** Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in [excess of the rate established under] **violation of** this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in [excess of the rate established under] **violation of** this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes [pursuant to] of this section.

4. **Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least 14-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:**

NOTICE:

This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

5. **The lender shall provide the borrower with a notice in substantially the following form set forth in at least 10-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:**

(1) **This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.**

(2) **You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.**

6. **The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the fifth renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by ten percent of the original amount of the loan until such loan is paid in full.**

7. **When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.**

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

408.510. LICENSURE OF CONSUMER INSTALLMENT LENDERS — INTEREST AND FEES ALLOWED. — Notwithstanding any other law to the contrary, the phrase "consumer installment loans" means secured or unsecured loans of any amount and payable in not less than four substantially equal installments over a period of not less than one hundred twenty days. The phrase "consumer installment lender" means a person licensed to make consumer installment loans. A consumer installment lender shall be licensed in the same manner and upon the same terms as a lender making consumer credit loans. Such consumer installment lenders shall contract for and receive interest and fees in accordance with sections 408.100 and 408.140. Consumer installment lenders shall be subject to the provisions of sections 408.551 to 408.562.

427.220. COMMISSIONS AND CONSIDERATION PAID TO DEPOSITORY INSTITUTIONS NOT TO BE MORE LIMITED THAN THOSE PAID TO INSURANCE AGENCIES — DEFINITIONS. — 1. Commissions paid to properly licensed employees or individual agents of a depository institution or a related entity shall not be more limited than commissions paid to employees or agents or any other properly licensed insurance agency, but shall be disclosed at least quarterly to the board of directors of the depository institution if earned under a contract with the depository institution to facilitate the sale of insurance; provided this subsection shall not apply to commissions based on the sale of credit insurance regulated by chapter 385, RSMo.

2. Consideration given under a contract between a depository institution and a related entity to facilitate the sale of insurance shall not be more limited than under such a contract between a depository institution and a nonrelated entity, except that the consideration from the related entity, other than an operating subsidiary, must be at least equal to the fair market value of the consideration from the depository institution. The depository institution may establish the value of rights under a contract by obtaining written bid commitments based on a nonrelated entity's bid for a contract; provided:

(1) The parties to the contract may, demonstrate fair market value by illustrating the costs and benefits of the contract in a number of ways, including but not limited to the following: providing a full accounting of the calculations and compensation, including gross commissions to be received by each party to the contract, and any fees or other payments made to any bank officers, directors, employees and agents as a result of the contract, as well as specifically disclosing the services, such as standard light, heat,

telephone, space plus office personnel and filing space, and providing an accounting of new business to be generated, with a comparison of depository institution and agency business, for the parties to the contract;

(2) Information provided pursuant to this subsection, shall be considered proprietary and confidential pursuant to sections 361.070 and 361.080, RSMo.

3. If the division determines enforcement action is necessary to protect the safety and soundness of an institution that it regulates, it may take enforcement action as otherwise permitted by law and may limit insurance commissions or other payments to an amount other than permitted in this section; provided the division has made a finding that enforcement action was required to protect the safety and soundness of such institution. Nothing in this section shall limit the application of sections 382.190 and 382.195, RSMo, to transactions between insurers and their affiliates.

4. For the purposes of this section, the following terms shall mean:

(1) "Commissions", in addition to insurance commissions, this term shall include any other compensation received for the sale of insurance products whether such compensation is classified within the depository institution as salary, bonus or other remuneration;

(2) "Contract", any contract or arrangement;

(3) "Division", the division of finance or the division of credit union supervision;

(4) "Fair market value", the value of an asset or service, which may include determinable costs and a profit reasonable for the market and shall not be limited to a specific rate of profit;

(5) "Operating subsidiary", any subsidiary of a depository institution that is not a financial subsidiary as otherwise defined by law;

(6) "Related entity", any holding company, affiliate or subsidiary of the depository institution or any entity controlled by common ownership with the depository institution or by an individual or individuals who are executive officers or directors of the depository institution.

513.430. PROPERTY EXEMPT FROM ATTACHMENT — BENEFITS FROM CERTAIN EMPLOYEE PLANS, EXCEPTION — BANKRUPTCY PROCEEDING, FRAUDULENT TRANSFERS, EXCEPTION — CONSTRUCTION OF SECTION. — 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed one thousand dollars in value in the aggregate;

(2) Jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value four hundred dollars in the aggregate;

(4) Any implements, professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed two thousand dollars in value in the aggregate;

(5) Any motor vehicle, not to exceed one thousand dollars in value;

(6) Any mobile home used as the principal residence, not to exceed one thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person,

the amount exempt in such proceedings shall not exceed in value [five] **one hundred fifty** thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within [six months] **one year** prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed five hundred dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any similar plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified under Section 401(k), 403(a)(3), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended.

If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such

funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

SECTION 1. DENIAL OF CLAIM, DISCLOSURE BY APPLICANT NOT REQUIRED. — No insurer or its agent or representative shall require any applicant or policyholder to divulge if any insurer has denied any claim of that applicant or policyholder.

Approved July 12, 2001

SB 193 [HCS SS SB 193]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Governs the qualifications and procedures for the licensing of insurance producers.

AN ACT to repeal sections 148.400, 375.012, 375.014, 375.016, 375.017, 375.018, 375.019, 375.020, 375.021, 375.022, 375.025, 375.027, 375.031, 375.033, 375.035, 375.037, 375.039, 375.046, 375.051, 375.061, 375.065, 375.071, 375.076, 375.081, 375.082, 375.086, 375.091, 375.096, 375.101, 375.106, 375.116, 375.121, 375.136, 375.141, 375.142, 375.158, 379.356 and 384.043, RSMo 2000, and to enact in lieu thereof thirty new sections relating to insurance producers, with penalty provisions and an effective date for certain sections.

SECTION

- A. Enacting clause.
- 148.400. Deductions allowed insurance companies.
- 374.285. Expungement of certain disciplinary action records.
- 375.012. Definitions.
- 375.014. Insurance producers, license required — insurance producer license not required, when.
- 375.015. Application for licensure, insurance producers.
- 375.016. Examination required for insurance producer's license.
- 375.017. Nonresident producer's license.
- 375.018. Issuance of producer's license, duration — lines of authority — biennial renewal fee for agents, due when — failure to comply, effect.
- 375.019. Advisory board on licensing and examination of insurance producers — qualifications — terms — meetings — duties.
- 375.020. Continuing education for producers, required, exceptions — procedures — director to promulgate rules and regulations — fees, how determined, deposit of.
- 375.022. Registry of insurance producers maintained by insurer — termination of producer, insurer to notify director.
- 375.025. Temporary license — to whom issued.
- 375.031. Definitions.
- 375.033. Termination of contract, notice — agent not to do business.
- 375.035. Renewal after termination of producer's contract.
- 375.037. Director's investigation — appeal.
- 375.039. Commercial risks, certain class, cancellation, written notice to agent required, when.

- 375.046. Who deemed agent of unauthorized company.
- 375.051. Producer held as trustee of money collected.
- 375.052. Additional incidental fees — disclosure to applicant or insurer.
- 375.065. Credit insurance producer license — organizational credit entity license — application — fee — rules.
- 375.071. Centralized producer license registry, participation in.
- 375.076. No consideration for unlicensed persons.
- 375.106. Insurance producers, limitations on negotiated contracts.
- 375.116. Compensation of producer, regulations — not to receive pay from insured, exception.
- 375.136. Producer placing business with a nonadmitted company or nonresident is subject to chapter 384, RSMo.
- 375.141. Suspension, revocation, refusal of license — grounds — procedure.
- 375.158. Insurer shall comply with all insurance laws before doing business — commissions paid, to whom.
- 379.356. Excessive premiums and rebates prohibited.
- 384.043. Licensing requirements for surplus lines brokers, fee — bond — examination, exception — renewal, when, violation, effect.
- 375.021. Agent's license, when terminated — procedure.
- 375.027. Temporary license for applicant.
- 375.061. Agency must be licensed, requirements, fee — renewal, fee — violation, penalty.
- 375.081. Examination — held when — testing service authorized — issuance of license — rules and regulations.
- 375.082. Waiver of examination, when.
- 375.086. Broker's examination not required of certain persons.
- 375.091. Broker's license, issued to whom.
- 375.096. Broker's license, biennial renewal, fee — nonresident broker to complete continuing education requirements — reinstatement requirements.
- 375.101. Temporary broker's license issued, when.
- 375.121. Funds collected by broker to be kept separate.
- 375.142. Change of anniversary date, when.
 - B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 148.400, 375.012, 375.014, 375.016, 375.017, 375.018, 375.019, 375.020, 375.021, 375.022, 375.025, 375.027, 375.031, 375.033, 375.035, 375.037, 375.039, 375.046, 375.051, 375.061, 375.065, 375.071, 375.076, 375.081, 375.082, 375.086, 375.091, 375.096, 375.101, 375.106, 375.116, 375.121, 375.136, 375.141, 375.142, 375.158, 379.356 and 384.043, RSMo 2000, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 148.400, 374.285, 375.012, 375.014, 375.015, 375.016, 375.017, 375.018, 375.019, 375.020, 375.022, 375.025, 375.031, 375.033, 375.035, 375.037, 375.039, 375.046, 375.051, 375.052, 375.065, 375.071, 375.076, 375.106, 375.116, 375.136, 375.141, 375.158, 379.356 and 384.043, to read as follows:

148.400. DEDUCTIONS ALLOWED INSURANCE COMPANIES. — All insurance companies or associations organized in or admitted to this state may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, income taxes, franchise taxes, personal property taxes, valuation fees, registration fees and examination fees paid, including taxes and fees paid by the attorney in fact of a reciprocal or interinsurance exchange to the extent attributable to the principal business as such attorney in fact, under any law of this state. **Unless rejected by the general assembly by April 1, 2003, for all tax years beginning on or after January 1, 2003, a deduction for examination fees which exceeds an insurance company's or association's premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed; except that, notwithstanding the provisions of section 148.380, if any deduction is claimed through the carryforward provisions of this section, it shall be credited wholly against the general revenue fund and shall not cause a reduction in revenue to the county foreign insurance fund.**

374.285. EXPUNGEMENT OF CERTAIN DISCIPLINARY ACTION RECORDS. — **Except as provided in section 375.141, RSMo, all records of disciplinary actions against an insurance agent, broker, agency or producer which resulted in a voluntary forfeiture of two hundred**

dollars or less shall be expunged after a period of five years from the date of the execution of the voluntary forfeiture by the director of the department of insurance.

375.012. DEFINITIONS. — 1. As used in [this chapter] sections 375.012 to 375.158, the following words mean:

(1) ["Broker", an insurance broker is any natural person who, for a commission, brokerage consideration, or other thing of value, acts or aids in any manner in negotiating contracts of insurance, or in placing risks or in soliciting or effecting contracts of insurance as an agent for an insured other than himself and not as an agent of an insuring company or any other type of insurance carrier. The term "broker" shall not apply to a person working as an officer for an insurance carrier, or in a clerical, administrative or service capacity for an insurance carrier or for a licensed agent or broker provided that the person does not solicit contracts of insurance. The term "broker" shall not apply to an insured's placing, or negotiating the placement of, his own insurance; nor shall the term "broker" apply to any employee of an insured engaged in placing or negotiating for placement of insurance for his employer;] **"Business entity", a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity;**

(2) "Director", the director of the department of insurance;

(3) ["Insurance agency", any individual transacting or doing business under any name other than his true name, any partnership, unincorporated association or corporation, transacting or doing business with the public or insurance companies as an insurance agent or broker;

(4) "Insurance agent", any authorized agent of an insurer, or representative of the agent, who acts as an agent in the solicitation of, negotiation for, or procurement or making of, any insurance or annuity contract, other than the attorney in fact or a traveling salaried representative of a mutual, reciprocal, or stock insurer;

(5)] **"Home state", the District of Columbia and any state or territory of the United States in which the insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer;**

(4) **"Insurance", any line of authority, including life, accident and health or sickness, property, casualty, variable life and variable annuity products, personal, credit and any other line of authority permitted by state law or regulation;**

(5) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometric and other similar health service plans, unless their exclusion from this definition can be clearly ascertained from the context of the particular statutory section under consideration. Insurer shall also include all companies organized, incorporated or doing business [under] **pursuant to** the provisions of chapters 375, 376, 377, 378, 379 [and], 381 **and 384**, RSMo. ["Insurer" shall not include companies formed under section 354.700, RSMo.] Trusteed pension plans and profit sharing plans qualified [under] **pursuant to** the United States Internal Revenue Code as now or hereafter amended shall not be considered to be insurance companies or insurers within the definition of this section[.];

(6) "Insurance producer" or "producer", a person required to be licensed pursuant to the laws of this state to sell, solicit or negotiate insurance;

(7) **"License", a document issued by the director authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself shall not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance company;**

(8) **"Limited line credit insurance", credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or**

wholly extinguishing that credit obligation that the director determines should be designated a form of limited line credit insurance;

(9) "Limited line credit insurance producer", a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage through a master, corporate, group or individual policy;

(10) "Limited lines insurance", insurance involved in credit transactions, insurance contracts issued primarily for covering the risk of travel or any other line of insurance that the director deems necessary to recognize for the purposes of complying with subsection 5 of section 375.017;

(11) "Limited lines producer", a person authorized by the director to sell, solicit or negotiate limited lines insurance;

(12) "Negotiate", the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;

(13) "Person", an individual or any business entity;

(14) "Personal lines insurance", property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(15) "Sell", to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;

(16) "Solicit", attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;

(17) "Terminate", the cancellation of the relationship between an insurance producer and the insurer or the termination of the authority of the producer to transact the business of insurance;

(18) "Uniform business entity application", the current version of the National Association of Insurance Commissioners uniform business entity application for resident and nonresident business entities seeking an insurance producer license;

(19) "Uniform application", the current version of the National Association of Insurance Commissioners uniform application for resident and nonresident producer licensing.

2. All statutory references to "insurance agent" or "insurance broker" shall mean "insurance producer", as that term is defined pursuant to subsection 1 of this section.

375.014. INSURANCE PRODUCERS, LICENSE REQUIRED — INSURANCE PRODUCER LICENSE NOT REQUIRED, WHEN. — 1. No person shall [act] sell, solicit or negotiate insurance in this state [as an insurance agent] for any class or classes of insurance unless he or she is licensed [by the director] for that line of authority as provided in this chapter.

2. Nothing in this chapter shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" shall not include the officers, directors, employees, subsidiaries or affiliates of the insurer.

3. A license as an insurance producer shall not be required of the following:

(1) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state; and

(a) The activities of the officer, director or employee are executive, administrative, managerial, clerical or a combination of these activities, and are only indirectly related to the sale, solicitation or negotiation of insurance; or

(b) The function of the officer, director or employee relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(c) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

(2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance, or for the purpose of enrolling individuals under plans, issuing certificates under plans or otherwise assisting in administering plans or who performs administrative services related to mass-marketed property and casualty insurance, when no commission is paid to the person for the service;

(3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors or trustees are engaged in the administration or operation of a program of employee benefits for the employees of the employer or association or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance and who do not accompany insurance producer trainees on presentations to prospective insurance applicants;

(5) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(6) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that the person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;

(7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission; or

(8) A licensed attorney providing probate or other court- required bonds on behalf of a client or client represented by the firm or office of the attorney.

4. Those individuals and business entities licensed as of January 1, 2003, shall be issued an individual insurance producer or a business entity insurance producer license as the licenses renew on or after January 1, 2003. The licenses held by individuals and business entities on the effective date of this act shall be deemed valid and accrue the rights, privileges and responsibilities of an insurance producer license until an insurance producer license is issued on renewal.

375.015. APPLICATION FOR LICENSURE, INSURANCE PRODUCERS. — 1. An individual applying for a resident insurance producer license shall make application to the director on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the knowledge and belief of the applicant. Before approving the application, the director shall find that the individual:

- (1) Is at least eighteen years of age;
- (2) Has not committed any act that is a ground for denial, suspension or revocation set forth in section 375.141;
- (3) Has paid a license fee in the sum of one hundred dollars; and
- (4) Has successfully passed the examinations for the lines of authority for which the person has applied.

2. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the uniform business entity application. Before approving the application, the director shall find that:

- (1) The business entity has paid a license fee in the sum of one hundred dollars;
- (2) The business entity has designated a licensed individual insurance producer to be responsible for compliance with the insurance laws, rules and regulations of this state by the business entity; and
- (3) Neither the business entity nor any of its officers, directors or owners has committed any act that is a ground for denial, suspension or revocation set forth in section 375.141.

3. The director may require any documents reasonably necessary to verify the information contained in an application.

4. In addition to designating a licensed individual insurance producer to be responsible for compliance with the insurance laws, rules and regulations of this state, the application shall contain a list of all insurance producers employed by or acting in behalf of or through the business entity and to whom the business entity pays any salary or commission for the solicitation, negotiation or procurement of any insurance contract.

5. Within twenty working days after the change of any information submitted on the application or upon termination of any insurance producer, the business entity shall notify the director of the change or termination. No fee shall be charged for any such change or termination.

6. If the director has taken no action within twenty-five working days of receipt of an application, the application shall be deemed approved and the applicant may act as a licensed insurance producer, unless the applicant has indicated a conviction for a felony or a crime involving moral turpitude.

375.016. EXAMINATION REQUIRED FOR INSURANCE PRODUCER'S LICENSE. — 1. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to subsection 5, 6 or 7 of this section. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted pursuant to the rules and regulations prescribed by the director.

2. The director [shall issue a license to any natural person, who is at least eighteen years of age, and has complied with the requirements of section 375.018, authorizing the licensee to act as an insurance agent in respect to any or all types of insurance as specified in such license, on behalf of any company which is authorized to do and transact such kinds of insurance business in this state.

2. Any license issued shall authorize only the licensee named in the license to act individually as agent thereunder.] **may make arrangements, including contracting with an outside testing service, for administering examinations.**

3. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the director.

4. An individual who fails to appear for the examination as scheduled or fails to pass the examination, may reapply for an examination and shall remit all required fees and forms before being rescheduled for another examination.

5. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state. The director may also verify that the applicant is or was licensed in good standing for the lines of authority requested through the producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, or any other method the director deems appropriate.

6. An individual licensed as an insurance producer in another state who moves to this state shall make application within ninety days of establishing legal residence to become a resident insurance producer pursuant to subsection 1 of this section. No examination shall be required of that person to obtain any line of authority previously held in the prior state except where the director determines otherwise by regulation.

7. Individuals applying for limited lines producer licenses shall be exempt from examination.

375.017. NONRESIDENT PRODUCER'S LICENSE. — 1. [(1) The director shall not assess a greater fee for an insurance license or related service to a person not residing in the state based solely on the fact that the person does not reside in this state.

(2) The director shall waive any license application requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by subsection 2 of this section, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

(3) A nonresident licensee's satisfaction of his or her home state's continuing education requirements for licensees shall constitute satisfaction of this state's continuing education requirements if the nonresident licensee's home state recognizes the satisfaction of its continuing education requirement imposed upon licensees from this state on the same basis. This section shall also apply to surplus line licensees licensed pursuant to chapter 384, RSMo.

2. (1) Unless denied pursuant to section 375.141, a nonresident person shall receive a nonresident agent or broker's license if:

(a) The person is currently licensed for the same line of authority as a resident and is in good standing in his or her home state;

(b) The person has submitted the proper request for licensure and has paid the fees required by law;

(c) The person has submitted or transmitted to the director the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed uniform application; and

(d) The person's home state awards nonresident licenses to residents of this state on the same basis.] **Unless denied licensure pursuant to section 375.141, a nonresident person shall receive a nonresident producer license if:**

(1) **The person is currently licensed as a resident and in good standing in his or her home state;**

(2) **The person has submitted the proper request for licensure and has paid the fees prescribed by the director;**

(3) **The person has submitted or transmitted to the director the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed uniform application or the uniform business entity application; and**

(4) The home state of the person awards nonresident producer licenses to residents of this state on the same basis.

2. The director may verify the licensing status of the nonresident producer through the producer database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or through any other method the director deems appropriate.

3. A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address within thirty days of the change of legal residence.

[(2)] 4. Notwithstanding any other provision of [sections 375.012 to 375.146] **this chapter**, a person licensed as a surplus **lines** licensee or **producer** in his or her home state shall receive a nonresident surplus lines license pursuant to [subdivision (1)] **subsection 1** of this [subsection] **section**. Except as provided in [subdivision (1)] **subsection 1** of this [subsection] **section**, nothing in this [subsection] **section** otherwise amends or supercedes any provision of chapter 384, RSMo.

[(3)] 5. Notwithstanding any other provision of [sections 375.012 to 375.146] **this chapter**, a person licensed as a limited line credit insurance **producer** or other type of limited lines [licensee] **producer** in his or her home state shall receive a nonresident limited lines **producer** license, pursuant to [subdivision (1)] **subsection 1** of this [subsection] **section**, granting the same scope of authority as granted under the license issued by [licensee's] **the** home state **of the producer**.

[3. An individual who applies for an agent or broker's license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any preclicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in the state or the state's licensee database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the licensee was licensed in good standing for the line of authority requested.

4. Subsections 1 to 3 of this section do not apply to excess and surplus licensees licensed pursuant to chapter 384, RSMo, except as provided in subdivision (3) of subsection 1 and subsection 2 of this section.

5. Any bank or trust company in its sale or issuance of insurance products or services, as authorized pursuant to section 362.105, RSMo, shall be subject to the insurance laws of this state and rules adopted by the department of insurance.] **For the purposes of this subsection, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to subdivisions (1) to (6) of subsection 1 of section 375.018.**

6. A satisfaction by the nonresident producer of the continuing education requirements of his or her home state for licensed insurance producers shall constitute satisfaction of the continuing education requirements of this state if the home state of the nonresident producer recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis. This subsection shall also apply to surplus lines licensees licensed pursuant to chapter 384, RSMo.

7. The director shall not assess a greater fee for an insurance producer license or related service to a person not residing in the state solely on the fact that the person does not reside in this state. The director shall waive any license application requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by subsection 1 of this section, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

375.018. ISSUANCE OF PRODUCER'S LICENSE, DURATION — LINES OF AUTHORITY — BIENNIAL RENEWAL FEE FOR AGENTS, DUE WHEN — FAILURE TO COMPLY, EFFECT. — 1. [In addition to any other requirement imposed by law or rule, no applicant for an agent's or broker's license shall be qualified therefor unless, within one year immediately preceding the date a written application is made to the director, the applicant has successfully completed a course of study approved by the director requiring the following hours of study, or the equivalent thereof, for the following licenses: Not less than twenty hours for a license limited to fire and allied lines insurance and twenty hours for general casualty insurance, or forty hours combined of fire and allied lines and general casualty insurance; and not less than fifteen hours for a license limited to life insurance and fifteen hours for accident and health insurance.] **Unless denied licensure pursuant to section 375.141, persons who have met the requirements of sections 375.014, 375.015 and 375.016 shall be issued an insurance producer license for a term of two years. An insurance producer may qualify for a license in one or more of the following lines of authority:**

- (1) Life-insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;**
- (2) Accident and health or sickness-insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income;**
- (3) Property-insurance coverage for the direct or consequential loss or damage to property of every kind;**
- (4) Casualty-insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property;**
- (5) Variable life and variable annuity products-insurance coverage provided under variable life insurance contracts and variable annuities;**
- (6) Personal lines-property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;**
- (7) Credit-limited line credit insurance;**
- (8) Any other line of insurance permitted under state laws or regulations.**

2. Any [agent] **insurance producer** who is certified by the Federal Crop Insurance Corporation on September 28, [1985] **1995**, to write federal crop insurance shall not be required to have a [fire and allied lines] **property** license for the purpose of writing federal crop insurance. [The director shall grant authority until revoked to such public and private educational organizations, technical colleges, trade schools, insurance companies or insurance trade organizations, or other approved organizations that provide satisfactory evidence that the courses of study actually taken by the applicant were in substantial compliance with the requirements established by the director. The director shall require the applicant to furnish a certificate of completion of any required courses of study from the authorized educational organizations. Every applicant seeking approval for a course of study by the director under this section shall pay to the director a filing fee of fifty dollars per course, unless it is a not-for-profit agents' group or association which provides no compensation to the course instructor. Such fee shall accompany any application form required by the director for such course approval. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the director's previous approval.]

2. Before any insurance agent's license is issued, there shall be on file in the office of the director the following:

- (1)** A written application made under oath by the prospective licensee in the form prescribed by the director. The application form shall contain answers to the following interrogatories: name, address, date of birth, sex, past employment for the three-year period immediately preceding the date of the application, past experience in insurance, status of

accounts with insurance companies and agents, criminal convictions or pleas of nolo contendere for felonies or misdemeanors, or currently pending felony charges or misdemeanor charges excluding minor traffic violations, and if a surety bond has ever been refused or revoked as a result of dishonest acts or practices. In addition, the application form shall contain a statement as to the kinds of insurance business in which the applicant intends to engage; and

(2) A fee of twenty-five dollars must accompany each application for an agent's license.

3. The director shall, in order to determine the competency of every individual applicant for a license, require the individual applicant to take and pass to the satisfaction of the director a written examination upon the kind or kinds of insurance business specified in his or her application. Such examinations shall be held at such times and places as the director shall from time to time determine. The director may, at his order or discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the director, and examination fees charged by such service shall be paid by the applicant. An examination fee represents an administrative expense and is not refundable.

4. The examination shall be as prescribed by the director and shall be of sufficient scope so as to reasonably test the applicant's knowledge relative to the kind or kinds of insurance which may be dealt with under the license applied for by the applicant. The applicant shall be notified of the result of the examination within twenty working days of the examination. The applicant may begin to act as an agent for those lines for which the applicant has passed an examination and completed the study requirements required by subsection 1 of this section and a license has been received by the applicant.

5. No examination or approved course of study required by subsection 1 of this section shall be required of:

(1) An applicant who is a ticket-selling agent or representative of a common carrier or other company who acts as an insurance agent only in reference to the issuance of insurance contracts primarily for covering the risk of travel;

(2) An applicant who holds a current license in another state which requires a written examination satisfactory to the director;

(3) An applicant for the same kind of license as that which was held in another state within one year next preceding the date of the application and which the applicant secured by passing a written examination and fulfilling comparable study requirements, and provided that the applicant is a legal resident of this state at the time of the application and is otherwise deemed by the director to be fully qualified;

(4) An applicant who is an owner of an individually owned business, his employee, or an officer or employee of a partnership or corporation who solicits, negotiates or procures credit life, accident and health or property insurance in connection with a loan or a retail time sale transaction made by the corporation, partnership, or individual business, or in a business in which there is conducted wholly or partly retail installment transactions under chapter 365, RSMo;

(5) Any person selling title insurance.

6. Every application for a license which may be granted without examination shall be accompanied by a fee of twenty-five dollars.

7. Subsection 1 of this section shall not apply to any person licensed as an agent or broker on January 1, 1986, unless the agent or broker applies for a type of license or line of insurance for which the agent or broker is not licensed as of January 1, 1986.

8.] **3.** The biennial renewal fee for [an agent's] **a producer's** license is [twenty-five] **one hundred** dollars for each license. [An agent's] **A producer's** license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 375.141[; except that if the biennial renewal fee for the license is not paid within ninety days after the biennial anniversary date or if the agent has not complied with section 375.020 if applicable within ninety days after the biennial anniversary date, the license terminates as of ninety days after the biennial anniversary date].

[9. Any nonresident agent who has not complied with the provisions of section 375.020 may not reapply for an agent license until that agent has taken the continuing education courses required under section 375.020.

10. An agent whose license terminated for nonpayment of the biennial renewal fee or noncompliance with section 375.020 may apply for a new agent's license because of such nonpayment or noncompliance, except that such agent must comply with all provisions of this section regarding issuance of a new license if such license was terminated for noncompliance with section 375.020, or shall pay a late fee at the rate of twenty-five dollars per month or fraction thereof after the biennial anniversary date if such license was terminated for nonpayment of the renewal fee, except that nothing in this subsection shall require the director to relicense any agent determined to have violated the provisions of subsection 1 of section 375.141.]

4. An individual insurance producer who allows his or her license to expire may, within twelve months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. The insurance producer seeking relicensing pursuant to this subsection shall provide proof that the continuing education requirements have been met and shall pay a penalty of twenty-five dollars per month that the license was expired in addition to the requisite renewal fees that would have been paid had the license been renewed in a timely manner. Nothing in this subsection shall require the director to relicense any insurance producer determined to have violated the provisions of section 375.141.

5. The license shall contain the name, address, identification number of the insurance producer, the date of issuance, the lines of authority, the expiration date and any other information the director deems necessary.

6. Insurance producers shall inform the director by any means acceptable to the director of a change of address within thirty days of the change. Failure to timely inform the director of a change in legal name or address may result in a forfeiture not to exceed the sum of ten dollars per month.

7. In order to assist the director in the performance of his or her duties, the director may contract with nongovernmental entities, including the National Association of Insurance Commissioners or any affiliates or subsidiaries that the organization oversees or through any other method the director deems appropriate, to perform any ministerial functions, including the collection of fees, related to producer licensing that the director may deem appropriate.

8. Any bank or trust company in the sale or issuance of insurance products or services shall be subject to the insurance laws of this state and rules adopted by the department of insurance.

9. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any other fine or sanction imposed for failure to comply with renewal procedures.

375.019. ADVISORY BOARD ON LICENSING AND EXAMINATION OF INSURANCE PRODUCERS — QUALIFICATIONS — TERMS — MEETINGS — DUTIES. — To assist the director to carry out the provisions of section [375.018] **375.016** there shall be an "Advisory Board on Licensing and Examination of Insurance [Agents and Brokers] **Producers**" consisting of nine insurance [agents or brokers] **producers** duly licensed by the state of Missouri. An insurance [agent or broker] **producer** to be eligible for service on the state board on examinations shall be a citizen of the United States[,] **and** a **licensed** resident insurance [agent or broker] of the state of Missouri, licensed as an insurance agent or broker by the state of Missouri] **producer**. Members of the board shall be appointed by the director. The director shall appoint four members for two-year terms and five members for three-year terms.

Membership on the board shall terminate for failure to meet any of the qualifications for eligibility, death, disability, inability to serve or resignation, absence from two consecutive regular meetings without acceptable excuse filed in writing to the board, or removal by the director. The board shall meet regularly at a place designated by the director within the state of Missouri at least annually and whenever deemed necessary by the director. At the regular meeting the board shall elect officers and transact any other such business as may properly come before the board. Five members shall constitute a quorum. The officers of the board shall consist of a chairman and vice chairman elected for a term of one year. The chairman, or in the event of his inability to serve, the vice chairman, shall preside at all meetings of the board, appoint committees, and perform the usual duties of such office. The board shall appoint a secretary who shall be a member of the board. The secretary shall keep correct minutes of all meetings of the board, furnishing a copy to each member and the director, mail notices of all meetings no less than ten days in advance thereof, and otherwise perform the usual duties of such office. The board shall make recommendations, including, but not limited to, [courses of study required under subsection 1 of section 375.018,] the approval of any educational or trade organizations and insurance companies, and any other matter that pertains to the [study] **insurance producer continuing education** requirements [provided by subsection 1 of section 375.018]. The board shall seek at all times to maintain and increase the effectiveness of examinations for insurance [agent or broker] **producer** licenses and shall advise and consult with the director with respect to the preparation and the conduct of insurance [agent or broker] **producer** examinations. The board shall recommend such changes as may expedite or improve any phase of the examination procedure or the method of conducting examinations. The board shall receive suggestions regarding the examination for consideration and discussion. The board shall make rules and determine procedure, with the approval of the director, in reference to other matters which may properly come before a board on examinations. Each member of the board on beginning his or her term of office shall file with the director a written pledge of faithful and honorable performance. The members of the board shall receive no compensation or expenses in connection with the performance of their duties.

375.020. CONTINUING EDUCATION FOR PRODUCERS, REQUIRED, EXCEPTIONS — PROCEDURES — DIRECTOR TO PROMULGATE RULES AND REGULATIONS — FEES, HOW DETERMINED, DEPOSIT OF. — 1. Beginning January 1, 1990, each insurance [agent and insurance broker] **producer**, unless exempt [under subsection 7, 8 or 9 of this] **pursuant to** section **375.016**, licensed to sell insurance in this state shall successfully complete courses of study as required by this section. Any person licensed to act as an insurance [agent or insurance broker] **producer** shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of ten hours of instruction for a life or accident and health license or both a life and an accident and health license and a minimum ten hours of instruction for a property or casualty license or both a property and a casualty license. Sixteen hours of training will suffice for those with a life, health, accident, property and casualty license. Of the sixteen hours training required above, the hours need not be divided equally. The courses or programs shall include instruction on Missouri law. Course credit shall be given to members of the general assembly as determined by the department.

2. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

- [(a)] (1) American College Courses (CLU, ChFC);
- [(b)] (2) Life Underwriters Training Council (LUTC);
- [(c)] (3) Certified Insurance Counselor (CIC);
- [(d)] (4) Chartered Property and Casualty Underwriter (CPCU);
- [(e)] (5) Insurance Institute of America (IIA);

[(f)] (6) An insurance related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

[(g)] (7) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized [agents'] **producer** association or insurance trade association. A local [agents'] **producer** group may also be approved if the instructor receives no compensation for services.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

4. Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program or seminar was held.

5. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

- (1) Serious physical injury or illness;
- (2) Active duty in the armed services for an extended period of time;
- (3) Residence outside the United States; or
- (4) Licensee is at least seventy years of age.

6. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs or seminars of instruction taken and successfully completed by such person. [A filing fee shall be paid by the person furnishing the report as determined by the director to be necessary to cover the administrative cost related to the handling of such certification reports, subject to the limitations imposed in subsection 10 of this section.] **Every provider of continuing education courses authorized in this state shall, within thirty working days of a licensed producer completing its approved course, provide certification to the director of the completion in a format prescribed by the director.**

7. The provisions of this section shall not apply to those natural persons holding licenses for any kind or kinds of insurance for which an examination is not required by the law of this state, nor shall they apply to any [such] limited **lines insurance producer license** or restricted license as the director may exempt.

8. [The provisions of this section shall not apply to those natural persons holding or applying for a license to act as an insurance agent or insurance broker in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to the type of license then held or applied for by such person. However, those natural persons holding or applying for a Missouri agent or broker license who reside in states which have no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri agents and brokers.]

9.] The provisions of this section shall not apply to a life insurance [agent] **producer** who is limited by the terms of a written agreement with the insurer[, which the insurer filed on that agent's behalf the appropriate appointment documents with the department of insurance,] to transact only specific life insurance policies having an initial face amount of five thousand dollars or less, or annuities having an initial face amount of ten thousand dollars or less, that are designated by the purchaser for the payment of funeral or burial expenses. The director may require the insurer [appointing such agents] **entering into the written agreements with the insurance producers pursuant to this subsection** to certify as to the [agents'] representations **of the insurance producers.**

[10.] **9.** Rules and regulations necessary to implement and administer this section shall be promulgated by the director [of the department of insurance], including, but not limited to, rules and regulations regarding the following:

(1) Course content and hour credits: The insurance advisory board established by section 375.019 shall be utilized by the director to assist him in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Filing fees for course approval: Every applicant seeking approval by the director of a continuing education course under this section shall pay to the director a filing fee of fifty dollars per course[, except that such total fee shall not exceed two hundred fifty dollars per year for any single applicant]. Fees shall be waived for **state and** local [agents'] **insurance producer** groups [if the instructor receives no compensation for services]. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the [director's] previous approval[;]

(3) Filing fee for continuing education certification: The director has the authority to determine the amount of the filing fee to be paid by agents and brokers at the time of license renewal, which shall be set at an amount to produce revenue which shall not substantially exceed the cost of administering this section, but in no event shall such fee exceed ten dollars per biennial report filed].

[11.] **10.** All funds received pursuant to the provisions of this section shall be transmitted by the director [of the department of insurance] to the department of revenue for deposit in the state treasury to the credit of the department of insurance dedicated fund. All expenditures necessitated by this section shall be paid from funds appropriated from the department of insurance dedicated fund by the legislature. [Any money in the insurance continuing education trust fund on June 26, 1991, shall be transferred to the credit of the department of insurance dedicated fund.

12. When the insurance agent or insurance broker pays his biennial renewal fee, he shall also furnish the written certification and filing fee required by this section.]

375.022. REGISTRY OF INSURANCE PRODUCERS MAINTAINED BY INSURER — TERMINATION OF PRODUCER, INSURER TO NOTIFY DIRECTOR. — 1. [Every insurance company] **An insurer** authorized to [provide or] transact **the business of** insurance in this state shall[, within thirty working days of an appointment of an agent to act for such insurance company, notify the director of such appointment upon forms prescribed by the director. Each appointment will result in a ten-dollar fee. The company shall remit these fees to the department of insurance on a quarterly basis. Such appointments may be made by appointing individual agents or by designating a licensed agency or a licensed organizational credit agency. The designation of an agency or an organizational credit agency shall be deemed to appoint all agents listed by such agency or listed as employees of such organizational credit agency pursuant to section 375.061 or section 375.065 to act for the insurance company in the lines for which the agent is licensed and the agency is designated. Any additional agents listed by the agency or additional agents listed by the organizational credit agency pursuant to section 375.061 or section 375.065 after the designation of the agency or the organizational credit agency shall be deemed appointed for all companies with existing designations of the agency or the organizational credit agency. The appointment of an agent pursuant to the provisions of this subsection shall terminate upon the agent's termination by or resignation from the agency or the organizational credit agency, upon termination of the agency or the organizational credit agency by the insurance company, or upon nonrenewal, suspension, surrender or revocation of the agent's license. Every such insurance company shall notify the director within thirty working days of the termination of the appointment of any agent whether the termination is by action of the company or

resignation of the agent. Each termination will result in a ten-dollar fee. When the cause of termination is for a reason that, pursuant to the provisions of section 375.141, would permit the director to revoke, suspend or refuse to issue an agent's license, the notice shall state the cause and circumstances of the termination. The notice shall be filed promptly after termination and within such time as may be prescribed by an appropriate order or regulation of the director of the department of insurance. The director may prescribe the form upon which the notification is to be given. The director shall upon written request by the agent furnish to him or her a copy of all information obtained pursuant to this section.

2. Any information filed by an insurance company or obtained by the director pursuant to this section and any document, record or statement required by the director pursuant to the provisions of this section shall be deemed confidential and absolutely privileged. There shall be no liability on the part of, and no cause of action shall arise against, any insurer, its agents or its authorized investigative sources or the director or the director's authorized representatives in connection with any written notice required by this section made by them in good faith.] **maintain a register of appointed insurance producers who are authorized to sell, solicit or negotiate contracts of insurance on behalf of the insurer. Within thirty days of an insurer authorizing an insurance producer to transact the business of insurance on its behalf, the insurer shall enter the name and license number of the insurance producer in the company register of appointed insurance producers. No fee shall be charged for adding a producer to or terminating a producer from the register.**

2. **An insurance producer shall not act on behalf of an insurer unless the insurance producer is listed on the company register of appointed insurance producers authorized to sell, solicit or negotiate contracts of insurance on behalf of the insurer.**

3. **The company register of appointed insurance producers shall be open to inspection and examination by the director during regular business hours of the insurer.**

4. **The company register of appointed insurance producers may be maintained electronically.**

5. **An insurer that terminates the appointment, employment, contract or other insurance business relationship with an insurance producer for one of the reasons set forth in section 375.141 shall, within thirty days following the effective date of the termination, notify the director of the reason for termination. The insurer shall also update its company register of appointed insurance producers by entering the effective date of the termination within thirty days after the termination.**

6. **An insurer that terminates the appointment, employment, contract or other insurance business relationship with an insurance producer for any reason not set forth in section 375.141, shall update its company register of appointed insurance producers by entering the effective date of the termination within thirty days after the termination.**

7. **The insurer shall promptly notify the director if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the director in accordance with subsection 1 of this section had the insurer then known of its existence.**

8. Any information filed by an insurance company or obtained by the director pursuant to this section and any document, record or statement required by the director pursuant to the provisions of this section shall be deemed confidential and absolutely privileged. There shall be no liability on the part of, and no cause of action shall arise against, any insurer, its producers or its authorized investigative sources or the director or the director's authorized representatives in connection with any written notice required by the section made by them in good faith. The director shall, upon written request by the producer, furnish to the producer a copy of all information obtained pursuant to this section.

9. The director is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the duties of the director.

10. Neither the director nor any person who received documents, materials or other information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection 1 of this section.

11. In order to assist in the performance of the duties of the director pursuant to this section, the director:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection 5 of this section, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information; and

(2) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

12. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the director pursuant to this section or as a result of sharing as authorized in subsection 7 of this section.

13. Nothing in this chapter shall prohibit the director from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to chapter 610, RSMo, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries of the National Association of Insurance Commissioners or any other like database or clearinghouse as deemed appropriate by the director.

14. If the director suspends, revokes, or refuses to issue or renew a license pursuant to section 375.141, he or she shall provide public notice.

375.025. TEMPORARY LICENSE — TO WHOM ISSUED. — 1. The director may issue [an agent's] a temporary **insurance producer** license for a period not to exceed ninety days without requiring [the applicant to pass a written] an examination if the director deems the temporary license is necessary for the servicing of an insurance business in the following circumstances:

(1) To the surviving spouse or [next of kin or the] **court-appointed** personal representative of a [deceased agent, or to the spouse, next of kin, employee, or conservator of a] licensed [agent becoming] **insurance producer who dies or becomes mentally or physically disabled** [because of sickness, mental or physical disability, or injury, if in the director's opinion a temporary license is necessary] **to allow adequate time** for the [continuation] **sale** of the **insurance** business [of the agent thereby affected. Such license may be issued for a term not exceeding ninety days and the director may in his discretion renew such license for an additional term or terms of ninety days each, not exceeding in the aggregate fifteen months] **owned by the producer or to provide for the training and licensing of new personnel to operate the business of the producer;**

(2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

[(2)] (3) To the designee of a licensed [agent who shall enter] **insurance producer entering** active service in the armed forces of the United States [for such period of time as in the opinion of the director may be necessary for the continuation of the business of the agent thereby affected.]; or

(4) In any other circumstance in which the director deems that the public interest will best be served by the issuance of the license.

2. The director may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The director may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The director may revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

375.031. DEFINITIONS. — As used in sections 375.031 to 375.039, the following words and terms mean:

(1) "Director", the director of the department of insurance;

(2) "Exclusive [agent] **insurance producer**", any licensed [agent] **insurance producer** whose contract with an insurer requires the [agent] **insurance producer** to act as an agent only for that insurer or a group of insurers under common ownership or control or other insurers authorized by that insurer;

(3) "Independent insurance [agent] **producer**", any licensed [agent] **insurance producer** representing an insurance company as an independent contractor and not as an employee, or any individual, partnership or corporation transacting business with the public or insurance companies as an **agent is an independent insurance [agent] producer**, but shall not include an exclusive [agent] **insurance producer**;

(4) "Insurer", any property and casualty insurance company doing business in the state of Missouri.

375.033. TERMINATION OF CONTRACT, NOTICE — AGENT NOT TO DO BUSINESS. — 1. All contracts between an insurer and an independent insurance [agent] **producer** in effect in the state of Missouri on or after September 28, 1979, shall not be terminated or canceled by the insurer except by mutual agreement or unless ninety days' written notice in advance has been given to the [agent] **independent insurance producer** and the director of insurance.

2. During the ninety days' notice period the independent insurance [agent] **producer** shall not write or bind any new business on behalf of the insurer without specific written approval.

375.035. RENEWAL AFTER TERMINATION OF PRODUCER'S CONTRACT. — 1. Any insurer in this state shall, upon termination or cancellation of an independent insurance [agent's] **producer's** contract, permit the renewal of all contracts of insurance written by the independent insurance [agent] **producer** for a period of one year from the date of termination, as determined by the underwriting requirements of the insurer. If any insured fails to meet the current underwriting requirements of the insurer, the insurer shall give the terminated independent insurance [agent] **producer** and the insured thirty days' notice of its intention not to renew the contract of insurance.

2. Any insurer renewing contracts of insurance in accordance with this section shall pay commissions for the renewals to the terminated or canceled independent insurance [agent]

producer in the same amount and manner as paid to the independent insurance [agent] **producer** under the terminated or canceled contract.

3. When the insurer renews a contract of insurance [under] **pursuant to** this section, the renewal shall be for a time period equal to the greater of one year or one additional term of the term specified in the original contract.

375.037. DIRECTOR'S INVESTIGATION — APPEAL. — 1. The director of insurance, on the written complaint of any person, or when [he] **the director** deems it necessary without a complaint, shall determine whether there has been a violation of sections 375.031 to 375.037. After such determination, the director shall notify all parties concerned by certified mail and shall prescribe a method of cancellation to be followed by the concerned parties. Any party who is aggrieved by the decision of the director of insurance shall be entitled to judicial review thereof, as provided in sections 536.100 to 536.140, RSMo.

2. Sections 375.031 to 375.037 shall not apply if the director determines nonrenewal is necessary to preserve an insurer's solvency or to protect the insured's interest. Nor shall sections 375.031 to 375.037 apply in the case of fraud, failure to properly remit premiums, or whenever the director determines the license of the [agent] **insurance producer** could be revoked or not renewed [under] **pursuant to** the provisions of section 375.141.

3. If any provision of sections 375.031 to 375.037 or the application thereof to any person or circumstances is held invalid, the validity of the remainder of sections 375.031 to 375.037 and of the application of such provision to other persons and circumstances shall not be affected thereby.

375.039. COMMERCIAL RISKS, CERTAIN CLASS, CANCELLATION, WRITTEN NOTICE TO AGENT REQUIRED, WHEN. — 1. No insurer may cancel, terminate or otherwise withdraw coverage for a certain class of commercial risk, unless written notice of such cancellation, termination, or withdrawal is given to the insurer's independent insurance [agent] **producer** authorized to sell such insurance coverage at least sixty days prior to such cancellation, termination or withdrawal.

2. The provisions of subsection 1 of this section shall not apply if the cancellation, termination or withdrawal of coverage by an insurer is by reason of reinsurance requirements, adverse loss experience, or by the requirement of the Missouri department of insurance. In these circumstances, the notice described in subsection 1 of this section shall be given at least thirty days prior to such cancellation, termination or withdrawal.

375.046. WHO DEEMED AGENT OF UNAUTHORIZED COMPANY. — Any person or persons in this state who shall receipt for any money on account of or for any contract of insurance made by [him or them] **such person or persons** for any insurance company or association not at the time authorized to do business in this state, or who shall receive or receipt for any money from other persons, to be transmitted to any such insurance company or association, either in or out of this state, for a policy or policies of insurance issued by the company or association, or for any renewal thereof, although the same may not be required by [him or them] **such person or persons** as [agents] **insurance producers**, or who shall make or cause to be made, directly or indirectly, any contract of insurance for the company or association, shall be deemed to all intents and purposes [an agent] **a producer** of the company or association, and shall be subject to all the provisions and regulations and liable to all the penalties provided and fixed by sections 375.010 to 375.920.

375.051. PRODUCER HELD AS TRUSTEE OF MONEY COLLECTED. — 1. Any [person] **insurance producer** who shall be appointed or who shall act [as agent for] **on behalf of** any insurance company within this state, or who shall, [as agent] **on behalf of any insurance company**, solicit applications, deliver policies or renewal receipts and collect premiums thereon,

or who shall receive or collect moneys from any source or on any account whatsoever, [as agent, for] **on behalf of** any insurance company doing business in this state, shall be held responsible in a trust or fiduciary capacity to the company for any money so collected or received by him **or her** for [such] **the insurance** company.

2. Any insurance producer who shall act on behalf of any applicant for insurance or insured within this state, or who shall, on behalf of any applicant for insurance or insured, seek to place insurance coverage, deliver policies or renewal receipts and collect premiums thereon, or who shall receive or collect moneys from any source or on any account whatsoever, shall be held responsible in a trust or fiduciary capacity to the applicant for insurance or insured for any money so collected or received by him or her.

3. Nothing in this section shall be construed to require any insurance producer to maintain a separate bank account or deposit for the funds of each payor, as long as the funds so held are reasonably ascertainable from the books of account and records of the insurance producer.

375.052. ADDITIONAL INCIDENTAL FEES — DISCLOSURE TO APPLICANT OR INSURER. — **An insurer or insurance producer may charge additional incidental fees for premium installments, late payments, policy reinstatements, or other similar services specifically provided for by law or regulation. Such fees shall be disclosed to the applicant or insured in writing.**

375.065. CREDIT INSURANCE PRODUCER LICENSE — ORGANIZATIONAL CREDIT ENTITY LICENSE — APPLICATION — FEE — RULES. — **1. Notwithstanding any other provision of this chapter, the director may license credit insurance [agents] **producers** by issuing individual licenses to [such agents] **each credit insurance producer** or by issuing an organizational credit [agency] **entity** license to a resident or nonresident applicant who has complied with the requirements of this section. An organizational credit [agency] **entity** license authorizes the [licensee's] employees **of the licensee** who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as [agents] **insurance producers** for the following types of insurance:**

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit involuntary unemployment insurance;
- (5) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit [agency] **entity license, an applicant shall submit to the director [an application in a form prescribed by the director] **the uniform business entity application** along with a fee of one hundred dollars. All applications shall include the following information:**

(1) The name of the [agency] **business entity**, the business address or addresses of the [agency] **business entity** and the type of ownership of the [agency] **business entity**. If [an agency] **a business entity** is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of [such agency] **the business entity**. If [an agency] **the business entity** is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the [agency] **business entity** is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the [agency] **business entity** and to whom [the agency] **it** pays any salary or commission for the **sale**, solicitation [or], negotiation **or procurement** of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property or any other form of credit or

credit-related insurance approved by the director. **Any changes in the list of employees of the business entity due to hiring or termination or any other reason shall be submitted to the director within ten days of the change.**

3. [An organizational credit agency authorized pursuant to this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141.] All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed [licensed agents] **insurance producers** pursuant to the [provision] **provisions of subsection 1 of section [375.016] 375.014** for the authorized lines of credit insurance, and shall be deemed licensed [agents] **insurance producers** for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on [such] **the business entity application list.**

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant [organizational credit agency] has complied with all license requirements contained in this section, shall issue the applicant an organizational credit [agency] **business entity** license which shall remain in effect for one year or until suspended or revoked by the director, or until the [agency] **organizational credit business entity** ceases to operate as a legal entity in this state. Each organizational credit [agency] **business entity** shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

(1) Paying a renewal fee of fifty dollars;

(2) Providing the director a list of all employees **selling**, soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each [such] employee.

5. Licenses **of organizational credit business entities** which are not timely renewed shall expire [thirty days after] **on** the anniversary date of the original issuance. [The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.] **An organizational credit business entity that allows the license to expire may, within twelve months of the due date of the renewal, reinstate the license by paying the license fee that would have been paid had the license been renewed in a timely manner plus a penalty of twenty-five dollars per month that the license was expired.**

6. Notwithstanding any other provision of law to the contrary, this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit [agency] **business entity.**

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

375.071. CENTRALIZED PRODUCER LICENSE REGISTRY, PARTICIPATION IN. — [Unless exempted by subsection 7 of section 375.018, no person shall act as or hold himself out to be a broker until he has satisfied the study requirements of subsection 1 of section 375.018 and has procured a license as required by this chapter, and no broker shall solicit or take applications for, procure, or place for others any kind or kinds of insurance, or any subdivision thereof, for which he is not then licensed.] **1. The director may participate in a centralized producer license registry, in whole or in part, with any entity the director deems appropriate, including but not limited to the National Association of Insurance Commissioners, or any affiliates or subsidiaries such organization oversees, in which insurance producer licenses may be centrally or simultaneously effected for all states that require an insurance producer license and that participate in the centralized producer license registry.**

2. If the director finds that participation in the centralized producer license registry is in the public interest, the director may adopt by rule any uniform standards and procedures consistent with this chapter as are necessary to participate in the registry,

including the central collection of all fees for licenses that are processed through the registry.

375.076. NO CONSIDERATION FOR UNLICENSED PERSONS. — [Any person desiring a license to act as a broker shall file with the director a fee of one hundred dollars and his written application in such form and give such information respecting his qualifications as the director may reasonably require.] **1. An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed and is not so licensed.**

2. A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed and is not so licensed.

3. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed at the time of the sale, solicitation or negotiation and was so licensed at that time.

4. An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to a business entity licensed as an insurance producer or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate subdivision (9) of section 375.936 or section 379.356, RSMo. Under no circumstances may an insurer or insurance producer pay or assign commissions, service fees, brokerages or other valuable consideration to a person whose license is under suspension or revocation.

375.106. INSURANCE PRODUCERS, LIMITATIONS ON NEGOTIATED CONTRACTS. — [Brokers] **Insurance producers acting on behalf of an applicant for insurance or insured** shall negotiate contracts of insurance only with [qualified] **authorized** domestic insurance companies, licensed insurance [agencies or their agents, or] **insurance producers**, foreign insurance companies duly admitted to do business in this state, or with a duly licensed surplus lines broker. [Every broker shall notify the director of those insurance companies with whom he places risks. Such notification shall not take place more than ten days after he places the first such risk with such insurance company or surplus lines broker. Every broker shall also immediately notify the director when he no longer intends to place such risks with such insurance company or surplus lines broker on a regular basis. Willful failure of a broker to comply with this requirement shall cause the revocation or suspension of all licenses held by the broker.]

375.116. COMPENSATION OF PRODUCER, REGULATIONS — NOT TO RECEIVE PAY FROM INSURED, EXCEPTION. — **1. An insurance [carrier or agent thereof or broker] company or insurance producer may pay money, commissions or brokerage, or give or allow anything of value, for or on account of negotiating contracts of insurance, or placing or soliciting or effecting contracts of insurance, to a duly licensed [broker] insurance producer.**

2. Nothing in this chapter shall abridge or restrict the freedom of contract of insurance [carriers or agents thereof or brokers] companies or insurance producers with reference to the amount of commissions or fees to be paid to [such brokers and such] the insurance producers and the payments are expressly authorized.

3. No insurance [broker] producer shall have any right to compensation[,] other than commissions deductible from premiums on insurance policies or contracts[,] from any applicant for insurance or insured [or prospective insured] for or on account of the negotiation or procurement of, or other service in connection with, any contract of insurance made or negotiated in this state or for any other services on account of [such] insurance policies or contracts, including adjustment of claims arising therefrom, unless the right to compensation is based upon

a written agreement between the [broker] **insurance producer** and the insured specifying or clearly defining the amount or extent of the compensation. Nothing [herein] contained **in this section** shall affect the right of any [broker] **insurance producer** to recover from the insured the amount of any premium or premiums for insurance effectuated by or through the [broker] **insurance producer**.

4. No insurance [broker] **producer** shall, in connection with the negotiation, procurement, issuance, delivery or transfer in this state of any contract of insurance made or negotiated in this state, directly or indirectly, charge or receive from the **applicant for insurance** or insured [or prospective insured] therein any greater sum than the rate of premium fixed therefor and shown on the policy by the insurance [carrier obligated as such therein] **company**, unless the [broker] **insurance producer** has a right to compensation for services created in the manner specified in subsection 3 of **this section**.

375.136. PRODUCER PLACING BUSINESS WITH A NONADMITTED COMPANY OR NONRESIDENT IS SUBJECT TO CHAPTER 384, RSMo. — Any [broker] **insurance producer** placing business with a nonresident agent **or producer** of a nonadmitted insurance [carrier] **company** or direct with a nonadmitted insurance [carrier] **company** or nonresident broker **or insurance producer** shall be subject to the provisions of chapter 384, RSMo.

375.141. SUSPENSION, REVOCATION, REFUSAL OF LICENSE — GROUNDS — PROCEDURE. — 1. The director may [revoke or] suspend, [for such period as he or she may determine, any] **revoke, refuse to issue or refuse to renew an insurance producer** license [of any insurance agent, agency or broker if it is determined as provided by sections 621.045 to 621.198, RSMo, that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have:

(1) In their dealings as an agent, broker or insurance agency, knowingly violated any provisions of, or any obligation imposed by, the laws of this state, department of insurance rules and regulations, or aided, abetted or knowingly allowed any insurance agent or insurance broker acting in behalf of an insurance agency to violate such laws, orders, rules or regulations which result in the revocation or suspension of the agent's or broker's license notwithstanding the same may provide for separate penalties;

(2) Obtained or attempted to obtain license by fraud, misrepresentation or made a material misstatement in the application for license;

(3) Been convicted of a felony or crime involving moral turpitude;

(4) Demonstrated lack of trustworthiness or competence;

(5) Misappropriated or converted to his, her or its own use or illegally withheld money belonging to an insurance company, its agent, or to an insured or beneficiary or prospective insurance buyer;

(6) Practiced or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with any insurance transaction;

(7) Acted as an insurance agency through persons not licensed as insurance agents or insurance brokers;

(8) Acted as an insurance agent, insurance agency, or insurance broker when not licensed as such;

(9) Had revoked or suspended any insurance license by another state;

(10) Committed unfair practices as defined in section 375.936;

(11) Sought the license for the primary purpose of soliciting, negotiating or procuring insurance contracts covering himself or herself or his or her family or insurance on property owned by his or her employer or any person who is employed by him or her or by a corporation, partnership or association of which he or she shall own or control a majority of the voting stock or a controlling interest;

(12) Is a legal resident of another state, licensed pursuant to section 375.017 or 375.126, which other state does not allow legal residents of Missouri to obtain a license to act as an agent or broker and to transact the business of solicitation of, negotiation for, or procurement or making of, insurance or annuity contracts;

(13) Owned or operated an insurance business in this state if the agent, broker or agency knew, or should have known, that the result was, or was likely to have been, an illegal placement of insurance with an unauthorized "multiple employer self-insured health plan" as that term is defined in section 376.1000, RSMo, or the subsequent servicing of an insurance policy illegally placed with an unauthorized multiple employer self-insured health plan.

2. The director may refuse to issue any license to any insurance agent, agency or broker if he or she determines that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have violated any of the provisions set out in subsection 1 of this section.

3. Every agent or broker licensed in this state shall notify the director, in writing, within thirty days, of any change in his or her residence address, and any agency licensed in this state shall notify the director, in writing, within thirty days, of any change in its business address. If the failure to notify the director of such change in address results in an inability to serve an agent, broker or agency with a complaint as provided by sections 621.045 to 621.198, RSMo, then the director may immediately revoke the license of said agent, broker or agency until such time as service may be obtained.] **for any one or more of the following causes:**

(1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

(3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of a felony or crime involving moral turpitude;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) Signing the name of another to an application for insurance or to any document related to an insurance transaction without authorization;

(11) Improperly using notes or any other reference material to complete an examination for an insurance license;

(12) Knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed;

(13) Failing to comply with an administrative or court order imposing a child support obligation; or

(14) Failing to comply with any administrative or court order directing payment of state or federal income tax.

2. In the event that the action by the director is not to renew or to deny an application for a license, the director shall notify the applicant or licensee in writing and advise the applicant or licensee of the reason for the denial or nonrenewal. Appeal of the

nonrenewal or denial of the application for a license shall be made pursuant to the provisions of chapter 621, RSMo.

3. The license of a business entity licensed as an insurance producer may be suspended, revoked, renewal refused or an application may be refused if the director finds that a violation by an individual insurance producer was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the director nor corrective action taken.

4. The director may also revoke or suspend [under] **pursuant to** subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.

5. Every insurance producer licensed in this state shall notify the director of any change of address, on forms prescribed by the director, within thirty days of the change. If the failure to notify the director of the change of address results in an inability to serve the insurance producer with a complaint as provided by sections 621.045 to 621.198, RSMo, then the director may immediately revoke the license of the insurance producer until such time as service may be obtained.

6. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

7. Within thirty days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution for a felony or a crime involving moral turpitude of the producer taken in any jurisdiction. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

375.158. INSURER SHALL COMPLY WITH ALL INSURANCE LAWS BEFORE DOING BUSINESS — COMMISSIONS PAID, TO WHOM. — 1. No insurer shall engage in the business of insurance in this state without first complying with all the provisions of the laws of this state governing the business of insurance.

2. No insurer organized or incorporated under the laws of this state shall undertake any business or risk except as provided by those laws. No insurer organized or incorporated by or under the laws of this state or any other state of the United States or any foreign government, transacting the business of life insurance, shall be permitted or allowed to take any other kind of risks except those connected with or pertaining to making assurance on the life of a human being and the granting, purchasing and disposing of annuities and endowments, and the making of insurance against accident and sickness to persons by life or health or life and health insurers as provided in sections 376.010 and 376.309, RSMo.

3. No insurer doing business in this state shall pay any commission or other compensation to any person or entity for any services, as [agent] **insurance producer**, in obtaining in this state any contract of insurance except to a licensed [and appointed agent] **insurance producer** of the insurer[,] and a licensed [and appointed] **business entity** insurance [agency with a copy of its current agency license on file with the insurer; or a licensed broker having a copy of the agency's or broker's current license on file with the insurer] **producer**.

379.356. EXCESSIVE PREMIUMS AND REBATES PROHIBITED. — No insurer[, broker or agent] or **insurance producer** shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of section 379.017 and sections 379.316 to 379.361. No insurer or employee thereof, and no [broker or agent] **insurance producer** shall pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium

named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings. No insured named in any policy of insurance shall knowingly receive or accept, directly or indirectly, any [such] rebate, discount, abatement, credit or reduction of premium, or any [such] special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of, nor permitting the regulation of the payment of, commissions or other compensation to duly licensed [agents and brokers] **insurance producers**; nor as prohibiting, or permitting the regulation of, any insurer from allowing or returning to its participating policyholders or members, dividends or savings.

384.043. LICENSING REQUIREMENTS FOR SURPLUS LINES BROKERS, FEE — BOND — EXAMINATION, EXCEPTION — RENEWAL, WHEN, VIOLATION, EFFECT. — 1. No agent or broker [licensed by the state] shall procure any contract of surplus lines insurance with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the director.

2. The director shall issue a surplus lines license to any qualified [resident] holder of a current **resident or nonresident** property and casualty [broker's] license but only when the [broker] **licensee** has:

- (1) Remitted the one hundred dollar initial fee to the director;
- (2) Submitted a completed license application on a form supplied by the director;
- (3) Passed a qualifying examination approved by the director, except that all holders of a license prior to July 1, 1987, shall be deemed to have passed such an examination; and
- (4) Filed with the director, and maintains during the term of the license, in force and unimpaired, a bond in favor of this state in the penal sum of [ten] **one hundred** thousand dollars **or in a sum equal to the tax liability for the previous tax year, whichever is smaller**, aggregate liability, with corporate sureties approved by the director. The bond shall be conditioned that the surplus lines licensee will conduct business in accordance with the provisions of sections 384.011 to 384.071 and will promptly remit the taxes as provided by law. No bond shall be terminated unless at least thirty days' prior written notice is given to the licensee and director. [If the director determines that a surplus lines licensee of a reciprocal sister state is competent and trustworthy, then he may, in his discretion, issue a nonresident surplus lines agent's license. A nonresident licensee shall be limited in his authority to servicing of business negotiated elsewhere and filing any appropriate taxes. A nonresident licensee shall not solicit business.]

3. Each surplus lines license shall be renewed annually on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 384.065; except that if the annual renewal fee for the license is not paid on or before the anniversary date the license terminates. The annual renewal fee is fifty dollars.

[375.021. AGENT'S LICENSE, WHEN TERMINATED — PROCEDURE. — A license issued to an agent shall authorize him to act as agent until such time as the license is terminated, suspended or revoked. Upon the termination, suspension or revocation of the license, the agent or any person having possession of the license shall immediately return same to the director and the director shall notify the agent and all companies appointing the agent by letter that the license is terminated, suspended or revoked. If at any time an agent has been without an appointment by a company for a period of two years, the director shall send the agent notice that the license will terminate within thirty working days except that if such agent has complied with the provisions of section 375.020 and has paid all licensing and other fees required by law, such agent's license shall not be so terminated. The agent may request a hearing before the director within thirty working days of notice of termination. Any insurance agent, broker or insurance agency holding a valid license on January 1, 1982, will not be required to take an examination

or pay a fee for said license. In addition, no insurance company is required to appoint any agent which is designated on the records of the department of insurance as representing said company as of January 1, 1982.]

[375.027. TEMPORARY LICENSE FOR APPLICANT. — A nonrenewable temporary license may be issued for a period not to exceed ninety days in cases where an applicant has theretofore filed a completed application for a license, has secured a company appointment, has paid the applicable fees and where the director is satisfied as to the applicant's business reputation.]

[375.061. AGENCY MUST BE LICENSED, REQUIREMENTS, FEE — RENEWAL, FEE — VIOLATION, PENALTY. — 1. No insurance agency shall act as an agency in this state unless it is licensed by the director as provided in this chapter.

2. Before any insurance agency license shall be issued, there shall be on file in the office of the director the following documents and information:

(1) An application such as may be prescribed by the director showing the name of the agency, business address or addresses of the agency, whether the agency is a partnership, unincorporated association or corporation; if a partnership or unincorporated association, the name and residence of each and every person or corporation having an interest in or owning any part of the agency; if a corporation, the names and addresses of the officers and directors of the corporation;

(2) A list of all insurance agents or brokers employed or acting in behalf of or through the agency and to whom the agency pays any salary or commission for the solicitation of or negotiation for any insurance contract.

3. Within twenty working days after the change of any information submitted on the application, or upon termination of any agency, the agency shall notify the director of the change or termination. The notification is to be filed without charge.

4. Upon receipt of an application and the payment of a fee of one hundred dollars, the director, if satisfied that the agency has complied with the provisions herein provided, shall issue a license which shall continue until suspended or revoked or the agency is terminated by operation of law.

5. Each insurance agency shall be responsible for renewing its agency license biennially on the anniversary date of the original licensing or the agency license shall terminate. The fee for renewal shall be one hundred dollars. The department of insurance shall assess a late fee for any insurance agency which fails to renew its agency license within thirty days of the renewal date, at the rate of twenty-five dollars per month.

6. Notwithstanding any other provision, nothing herein shall prohibit any insurance company from paying a commission or other remuneration to a duly licensed insurance agency.

7. It shall be unlawful for an insurance agency to solicit, negotiate for or produce contracts of insurance except through duly licensed insurance agents or brokers.

8. Any owner, officer, manager or director willfully violating any provision of this section is guilty of a class A misdemeanor and upon conviction therefor, if the offender holds a broker's or agent's license, the court imposing sentence shall order the director of the department of insurance to revoke such license.]

[375.081. EXAMINATION — HELD WHEN — TESTING SERVICE AUTHORIZED — ISSUANCE OF LICENSE — RULES AND REGULATIONS. — 1. If satisfied that the applicant meets the requirements of sections 375.018 and 375.091, the director shall subject the applicant to a written examination as to his or her competence to act as broker for any kind or kinds of insurance, or subdivision thereof, for which he or she wishes to be licensed. Such examinations shall be held at such times and places as the director shall from time to time determine. The director may, at his or her discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the director, and examination

fees charged by such service shall be paid by the applicant. An examination fee represents an administrative expense and is not refundable.

2. If the director is satisfied as to the qualifications of the applicant, he or she shall issue a license limited to the kind, or kinds, of insurance, or any subdivision thereof, for which the applicant is qualified.

3. Each applicant shall be advised of the result of his or her examination within twenty working days after the date of the examination.

4. The director may establish reasonable rules and regulations with respect to the scope, type, and conduct of uniform examinations and the times and places where they shall be held. The rules and regulations may require a reasonable waiting period before giving an examination to an applicant who has failed to pass a previous similar examination.]

[375.082. WAIVER OF EXAMINATION, WHEN. — The director shall waive the examination for a person applying for a broker's license if such person has had a resident agent's license in more than one line of insurance for at least five years immediately preceding the time of application for a broker's license and is a resident of the state of Missouri at the time of application.]

[375.086. BROKER'S EXAMINATION NOT REQUIRED OF CERTAIN PERSONS. — No examination shall be required of:

(1) An applicant for the same kind of license as that which he holds in this state as of January 1, 1982; or

(2) An applicant for the same kind of license as that which he has held in another state within one year next preceding the date of his application and which he secured by passing a written examination; and provided that the applicant is a legal resident of this state at the time of his application and is otherwise deemed by the director to be fully qualified and competent.]

[375.091. BROKER'S LICENSE, ISSUED TO WHOM. — Any license required by this chapter shall be issued to any person who is at least eighteen years of age, a citizen of the United States, and who is trustworthy and competent to act, and intends to hold himself out in good faith as an insurance broker, and the license is not sought principally for the purpose of soliciting, negotiating or procuring insurance contracts covering himself or his spouse or insurance on property owned by the applicant.]

[375.096. BROKER'S LICENSE, BIENNIAL RENEWAL, FEE — NONRESIDENT BROKER TO COMPLETE CONTINUING EDUCATION REQUIREMENTS — REINSTATEMENT REQUIREMENTS. —

1. The biennial renewal fee for a broker's license is one hundred dollars for each license. A broker's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked, or suspended by the director in accordance with section 375.141; except that if the biennial renewal fee for the license is not paid within ninety days after the biennial anniversary date or if the broker has not complied with section 375.020 if applicable within ninety days after the biennial anniversary date, the license terminates as of ninety days after the biennial anniversary date.

2. Any nonresident broker who has not complied with the provisions of section 375.020 may not reapply for a broker's license until that broker has taken the continuing education courses required under section 375.020.

3. A broker whose license terminated for nonpayment of the biennial renewal fee or noncompliance with section 375.020 may apply for a new broker's license because of such nonpayment or noncompliance, except that such broker must comply with all provisions of sections 375.076, 375.082, 375.086, and 375.091 regarding issuance of a new license if such license was terminated for noncompliance with section 375.020, or shall pay a late fee at the rate of twenty-five dollars per month or fraction thereof after the biennial anniversary date if such

license was terminated for nonpayment of the renewal fee, except that nothing in this subsection shall require the director to relicense any broker determined to have violated the provisions of subsection 1 of section 375.141.]

[375.101. TEMPORARY BROKER'S LICENSE ISSUED, WHEN. — The director shall, if requested, issue a broker's temporary license without requiring the applicant to pass a written examination in the following circumstances:

(1) To the surviving spouse or next of kin or to the personal representative of a deceased licensed broker or to the spouse, next of kin, employee or conservator of a licensed broker becoming disabled because of sickness, mental or physical disability or injury, if in the director's opinion the temporary license is necessary for the continuation of the business of the broker thereby affected. The license shall be issued for a term not exceeding six months and the director may in his discretion renew the license for an additional term of six months, thus not exceeding in the aggregate twelve months;

(2) To the appointee of a licensed broker who enters upon active service in the armed forces of the United States, for such period of time as in the opinion of the director may be necessary for the continuation of the business of the broker thereby affected.]

[375.121. FUNDS COLLECTED BY BROKER TO BE KEPT SEPARATE. — Every insurance broker acting as such in this state shall be responsible in a fiduciary capacity for all funds received or collected as an insurance broker, and shall not, without the express consent of his principal, mingle any such funds with his own funds or with funds held by him in any other capacity. Nothing herein contained requires any broker to maintain a separate bank deposit for the funds of each principal, if and as long as the funds so held for each principal are reasonably ascertainable from the books of account and records of the broker.]

[375.142. CHANGE OF ANNIVERSARY DATE, WHEN. — For a broker or agent licensed pursuant to this chapter, the director of the department of insurance may change such broker's or agent's anniversary date of issuance one time to coincide with the anniversary date for that broker's or agent's license.]

SECTION B. EFFECTIVE DATE. — The repeal of sections 375.021, 375.027, 375.061, 375.081, 375.082, 375.086, 375.091, 375.096, 375.101, 375.121 and 375.142, the repeal and reenactment of sections 375.012, 375.014, 375.016, 375.017, 375.018, 375.019, 375.020, 375.022, 375.025, 375.031, 375.033, 375.035, 375.037, 375.039, 375.046, 375.051, 375.065, 375.071, 375.076, 375.106, 375.116, 375.136, 375.141, 375.158 and 379.356 and the enactment of section 375.015 of this act shall become effective January 1, 2003.

Approved July 12, 2001

SB 197 [SCS SB 197]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the grant of immunity for the donation of certain fire equipment.

AN ACT to repeal section 320.091, RSMo 2000, relating to fire protection, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
320.091. Donation of used personal protection equipment and clothing, immunity from liability, when, conditions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 320.091, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 320.091, to read as follows:

320.091. DONATION OF USED PERSONAL PROTECTION EQUIPMENT AND CLOTHING, IMMUNITY FROM LIABILITY, WHEN, CONDITIONS. — There shall be no cause of action against any fire protection district, volunteer fire protection association, or any fire department of any political subdivision which donates [used personal protection] equipment [and] **used to suppress fire or** fire protection clothing to another department, association or district if **the following conditions are met:**

- (1) Such equipment is approved by the state fire marshal or [his] **the state fire marshal's** designee;
- (2) **Motor vehicles so donated must pass a safety inspection by the Missouri state highway patrol;**
- (3) **The receiving agency demonstrates to the state fire marshal's office that the equipment received works properly; and**
- (4) **The donor agency informs the receiving agency in writing of any defects in the equipment about which it knows.**

This immunity shall apply only to causes of action directly related to the equipment mentioned [herein] **in this section.**

Approved July 2, 2001

SB 200 [SB 200]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates Women Offender Program in the Department of Corrections.

AN ACT to repeal section 217.015, RSMo 2000, relating to the department of corrections, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
217.015. Divisions created — sections authorized — purpose of department — women offender program established, purpose — advisory committee established, membership, purpose.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 217.015, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 217.015, to read as follows:

217.015. DIVISIONS CREATED — SECTIONS AUTHORIZED — PURPOSE OF DEPARTMENT — WOMEN OFFENDER PROGRAM ESTABLISHED, PURPOSE — ADVISORY COMMITTEE ESTABLISHED, MEMBERSHIP, PURPOSE. — 1. The department shall supervise and manage all correctional centers, and probation and parole of the state of Missouri.

2. The department shall be composed of the following divisions:

- (1) The division of human services;
- (2) The division of adult institutions;
- (3) The board of probation and parole; and
- (4) The division of offender rehabilitative services.

3. Each division may be subdivided by the director into such sections, bureaus, or offices as is necessary to carry out the duties assigned by law.

4. The department shall operate a women offender program to be supervised by a director of women's programs. The purpose of the women offender program shall be to ensure that female offenders are provided a continuum of supervision strategies and program services reflecting best practices for female probationers, prisoners and parolees in areas including but not limited to classification, diagnostic processes, facilities, medical and mental health care, child custody and visitation.

5. There shall be an advisory committee under the direction of the director of women's programs. The members of the committee shall include the director of the office of women's health, the director of the department of mental health or designee and four others appointed by the director of the department of corrections. The committee shall address the needs of women in the criminal justice system as they are affected by the changes in their community, family concerns, the judicial system and the organization and available resources of the department of corrections.

Approved July 12, 2001

SB 201 [SB 201]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires Governor to declare February as Missouri Lifelong Learning Month.

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to Missouri lifelong learning month.

SECTION

A. Enacting clause.

9.140. Missouri Lifelong Learning Month observed, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.140, to read as follows:

9.140. MISSOURI LIFELONG LEARNING MONTH OBSERVED, WHEN. — The governor shall annually issue a proclamation making the month of February "Missouri Lifelong Learning Month", and recommending that it be observed by the people with appropriate activities in the public schools and otherwise to promote public awareness of the importance of ongoing education throughout each person's lifetime.

Approved June 27, 2001

SB 203 [SB 203]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts food from the sales tax imposed by the Metropolitan Park and Recreation District.

AN ACT to repeal section 32.085, RSMo 2000, relating to the sales tax imposed by the metropolitan park and recreation system, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 32.085. Local sales taxes, collection of — definitions.
- 67.1713. No sales tax on food for counties in metropolitan park and recreation districts, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 32.085, RSMo 2000, is repealed and two new sections enacted in lieu thereof, to be known as sections 32.085 and 67.1713, to read as follows:

32.085. LOCAL SALES TAXES, COLLECTION OF — DEFINITIONS. — The following words or phrases as used in this section and section 32.087 shall have the following meaning unless a different meaning clearly appears from the context:

- (1) "Boat" shall only include motorboats and vessels as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo;
- (2) "Farm machinery" means new or used farm tractors, cultivating and harvesting equipment which ordinarily is attached thereto, combines, cornpickers, cottonpickers, farm trailers, and such other new or used farm equipment or machinery which are used exclusively for agricultural purposes as the director of revenue may exempt by rule or regulation of the department of revenue;
- (3) "Local sales tax" shall mean any tax levied, assessed, or payable under the local sales tax law;
- (4) "Local sales tax law" shall refer specifically to sections 66.600 to 66.630, RSMo, sections 67.391 to 67.395, RSMo, sections 67.500 to 67.545, RSMo, section 67.547, RSMo, section 67.548, RSMo, sections 67.550 to 67.570, RSMo, section 67.581, RSMo, section 67.582, RSMo, section 67.583, RSMo, sections 67.590 to 67.594, RSMo, sections 67.700 to 67.727, RSMo, section 67.729, RSMo, sections 67.730 to 67.739, RSMo, section 67.782, RSMo, **sections 67.1712 to 67.1715, RSMo**, sections 92.400 to 92.421, RSMo, sections 94.500 to 94.550, RSMo, section 94.577, RSMo, sections 94.600 to 94.655, RSMo, and sections 94.700 to 94.755, RSMo, and any provision of law hereafter enacted authorizing the imposition of a sales tax by a political subdivision of this state; provided that such sales tax applies to all transactions which are subject to the taxes imposed under the provisions of sections 144.010 to 144.525, RSMo;
- (5) "Taxing entity" shall refer specifically to any political subdivision of this state which is authorized by the local sales tax law to impose one or more local sales taxes.

67.1713. NO SALES TAX ON FOOD FOR COUNTIES IN METROPOLITAN PARK AND RECREATION DISTRICTS, WHEN. — **Beginning January 1, 2002, there is hereby specifically exempted from the tax imposed pursuant to section 67.1712, all sales of food as defined by section 144.014, RSMo.**

Approved June 29, 2001

SB 223 [SB 223]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies procedure for court instructions regarding lesser included offenses.

AN ACT to repeal section 556.046, RSMo 2000, relating to criminal procedure, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

556.046. Conviction of included offenses — jury instructions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 556.046, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 556.046, to read as follows:

556.046. CONVICTION OF INCLUDED OFFENSES — JURY INSTRUCTIONS. — 1. A defendant may be convicted of an offense included in an offense charged in the indictment or information. An offense is so included when:

(1) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(2) It is specifically denominated by statute as a lesser degree of the offense charged; or

(3) It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein.

2. The court shall not be obligated to charge the jury with respect to an included offense unless there is a basis for a verdict acquitting the defendant of the offense charged and convicting him of the included offense. **An offense is charged for purposes of this section if:**

(1) **It is in an indictment or information; or**

(2) **It is an offense submitted to the jury because there is a basis for a verdict acquitting the defendant of the offense charged and convicting the defendant of the included offense.**

3. **The court shall be obligated to instruct the jury with respect to a particular included offense only if there is a basis in the evidence for acquitting the defendant of the immediately higher included offense and there is a basis in the evidence for convicting the defendant of that particular included offense.**

Approved July 6, 2001

SB 224 [SB 224]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes law enforcement districts in Camden County.

AN ACT to amend chapter 67, RSMo, by adding thereto twenty new sections relating to law enforcement districts, with an emergency clause.

SECTION

A. Enacting clause.

67.1860. Title.

- 67.1862. Definitions.
- 67.1864. District created in certain counties.
- 67.1866. Vote required to create district — petition, contents.
- 67.1868. Opposition to formation of a district, petition filed, procedure.
- 67.1870. Costs of filing to be paid by petitioners.
- 67.1872. Board of directors, members.
- 67.1874. Notice of district organization — election of board members, terms.
- 67.1876. Powers of the board, meetings, corporate seal, quorum.
- 67.1878. Use of funds, sources of funding.
- 67.1880. Property tax imposed, when — ballot language — collection of tax.
- 67.1882. Contracting, borrowing and agreement authority of the district.
- 67.1884. Limitation on district's contracting authority.
- 67.1886. Additional powers of the district.
- 67.1888. Insurance obtained by the district, types, conditions.
- 67.1890. Change in district boundaries, procedure.
- 67.1892. Vote required for change in boundaries, when.
- 67.1894. Termination of taxing authority by petition, procedure.
- 67.1896. Vote required for termination of taxing authority, when — ballot language.
- 67.1898. Dissolution of a district, procedure.
 - B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto twenty new sections, to be known as sections 67.1860, 67.1862, 67.1864, 67.1866, 67.1868, 67.1870, 67.1872, 67.1874, 67.1876, 67.1878, 67.1880, 67.1882, 67.1884, 67.1886, 67.1888, 67.1890, 67.1892, 67.1894, 67.1896 and 67.1898, to read as follows:

67.1860. TITLE. — Sections 67.1860 to 67.1898 shall be known as the "Missouri Law Enforcement District Act".

67.1862. DEFINITIONS. — As used in sections 67.1860 to 67.1898, the following terms mean:

- (1) "Approval of the required majority" or "direct voter approval", a simple majority;
- (2) "Board", the board of directors of a district;
- (3) "District", a law enforcement district organized pursuant to sections 67.1860 to 67.1898.

67.1864. DISTRICT CREATED IN CERTAIN COUNTIES. — 1. A district may be created to fund, promote, plan, design, construct, improve, maintain and operate one or more projects relating to law enforcement or to assist in such activity.

2. A district is a political subdivision of the state.

3. A district may be created in any county of the first classification without a charter form of government and a population of fifty thousand inhabitants or less.

67.1866. VOTE REQUIRED TO CREATE DISTRICT — PETITION, CONTENTS. — 1. Whenever the creation of a district is desired, ten percent of the registered voters within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of the county in which the proposed district is located.

2. The proposed district area shall be contiguous and may contain any portion of one or more municipalities.

3. The petition shall set forth:

(1) The name and address of each owner of real property located within the proposed district or who is a registered voter resident within the proposed district;

(2) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(3) A general description of the purpose or purposes for which the district is being formed; and

(4) The name of the proposed district.

4. In the event any owner of real property within the proposed district who is named in the petition or any legal voter resident within the district shall not join in the petition or file an entry of appearance and waiver of service of process in the case, a copy of the petition shall be served upon said owner or legal voter in the manner provided by supreme court rule for the service of petitions generally. Any objections to the petition shall be raised by answer within the time provided by supreme court rule for the filing of an answer to a petition.

67.1868. OPPOSITION TO FORMATION OF A DISTRICT, PETITION FILED, PROCEDURE. —

1. Any owner of real property within the proposed district and any legal voter who is a resident within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a judgment respecting these same issues.

2. The court shall hear the case without a jury. If the court determines the petition is defective or the proposed district or its plan of operation is unconstitutional, it shall enter its judgment to that effect and shall refuse to incorporate the district as requested in the pleadings. If the court determines the petition is not legally defective and the proposed district and plan of operation are not unconstitutional, the court shall determine and declare the district organized and incorporated and shall approve the plan of operation stated in the petition.

3. Any party having filed a petition or answer to a petition may appeal the circuit court's order or judgment in the same manner as provided for other appeals. Any order either refusing to incorporate the district or incorporating the district shall be a final judgment for purposes of appeal.

67.1870. COSTS OF FILING TO BE PAID BY PETITIONERS. — The costs of filing and defending the petition and all publication and incidental costs incurred in obtaining circuit court certification of the petition for voter approval shall be paid by the petitioners. If a district is organized pursuant to sections 67.1860 to 67.1898, the petitioners may be reimbursed for such costs out of the revenues received by the district.

67.1872. BOARD OF DIRECTORS, MEMBERS. — A district created pursuant to sections 67.1860 to 67.1898 shall be governed by a board of directors consisting of five members to be elected as provided in section 67.1874.

67.1874. NOTICE OF DISTRICT ORGANIZATION — ELECTION OF BOARD MEMBERS, TERMS. — 1. Within thirty days after the order declaring the district organized has become final, the circuit clerk of the county in which the petition was filed shall give notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, to call a meeting of the owners of real property and registered voters resident within the district at a day and hour specified in a public place in the county in which the petition was filed for the purpose of electing a board of five directors, two to serve one year, two to serve two years, and one to serve three years, to be composed of residents of the district.

2. The attendees, when assembled, shall organize by the election of a chairman and secretary of the meeting who shall conduct the election.

3. Each director shall serve for a term of three years and until such director's successor is duly elected and qualified. Successor directors shall be elected in the same manner as the initial directors at a meeting of the residents called by the board. Each

successor director shall serve a three-year term. The remaining directors shall have the authority to elect an interim director to complete any unexpired term of a director caused by resignation or disqualification.

4. Directors shall be at least twenty-one years of age.

67.1876. POWERS OF THE BOARD, MEETINGS, CORPORATE SEAL, QUORUM. — 1. The board shall possess and exercise all of the district's legislative and executive powers.

2. Within thirty days after the election of the initial directors, the board shall meet. At its first meeting and after each election of new board members the board shall elect a chairman, a secretary, a treasurer and such other officers as it deems necessary from its members. A director may fill more than one office, except that a director may not fill both the office of chairman and secretary.

3. The board may employ such employees as it deems necessary; provided, however, that the board shall not employ any employee who is related within the third degree by blood or marriage to a member of the board.

4. At the first meeting, the board, by resolution, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal.

5. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board, and approve any board resolution.

6. Each director shall devote such time to the duties of the office as their faithful discharge may require and may be reimbursed for such director's actual expenditures in the performance of such director's duties on behalf of the district.

67.1878. USE OF FUNDS, SOURCES OF FUNDING. — A district may receive and use funds for the purposes of planning, designing, constructing, reconstructing, maintaining and operating one or more projects relating to law enforcement. Such funds may be derived from any funding method which is authorized by sections 67.1860 to 67.1898 and from any other source, including but not limited to funds from federal sources, the state of Missouri or an agency of the state, a political subdivision of the state or private sources.

67.1880. PROPERTY TAX IMPOSED, WHEN — BALLOT LANGUAGE — COLLECTION OF TAX. — 1. If approved by at least four-sevenths of the qualified voters voting on the question in the district, the district may impose a property tax in an amount not to exceed the annual rate of thirty cents on the hundred dollars assessed valuation. The district board may levy a property tax rate lower than its approved tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval. The property tax shall be uniform throughout the district.

2. The ballot of submission shall be substantially in the following form:

Shall the Law Enforcement District impose a property tax upon all real and tangible personal property within the district at a rate of not more than (insert amount) cents per hundred dollars assessed valuation for the purpose of providing revenue for the development of a project (or projects) in the district (insert general description of the project or projects, if necessary)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. The county collector of each county in which the district is partially or entirely located shall collect the property taxes and special benefit assessments made upon all real property and tangible personal property within that county and the district, in the same manner as other property taxes are collected.

4. Every county collector having collected or received district property taxes shall, on or before the fifteenth day of each month and after deducting his or her commissions, remit to the treasurer of that district the amount collected or received by him or her prior to the first day of the month. Upon receipt of such money, the district treasurer shall execute a receipt therefor, which he or she shall forward or deliver to the collector. The district treasurer shall deposit such sums into the district treasury, credited to the appropriate project or purpose. The collector and district treasurer shall make final settlement of the district account and commissions owing, not less than once each year, if necessary.

67.1882. CONTRACTING, BORROWING AND AGREEMENT AUTHORITY OF THE DISTRICT.

— 1. A district may contract and incur obligations appropriate to accomplish its purposes.

2. A district may enter into any lease or lease-purchase agreement for or with respect to any real or personal property necessary or convenient for its purposes.

3. A district may borrow money for its purposes at such rates of interest as the district may determine.

4. A district may enter into labor agreements, establish all bid conditions, decide all contract awards, pay all contractors and generally supervise the operation of the district.

67.1884. LIMITATION ON DISTRICT'S CONTRACTING AUTHORITY. — The district may contract with a federal agency, a state or its agencies and political subdivisions, a corporation, partnership or individual regarding funding, promotion, planning, designing, constructing, improving, maintaining, or operating a project or to assist in such activity; provided, however, that any contract providing for the overall management and operation of the district shall only be with a governmental entity or a not for profit corporation.

67.1886. ADDITIONAL POWERS OF THE DISTRICT. — In addition to all other powers granted by sections 67.1860 to 67.1898 the district shall have the following general powers:

- (1) To contract with the local sheriff's department for the provision of services;
- (2) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;
- (3) To fix compensation of its employees and contractors;
- (4) To purchase any personal property necessary or convenient for its activities;
- (5) To collect and disburse funds for its activities; and
- (6) To exercise such other implied powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

67.1888. INSURANCE OBTAINED BY THE DISTRICT, TYPES, CONDITIONS. — 1. The district may obtain such insurance as it deems appropriate, considering its legal limits of liability, to protect itself, its officers and its employees from any potential liability and may also obtain such other types of insurance as it deems necessary to protect against loss of its real or personal property of any kind. The cost of this insurance shall be charged against the project.

2. The district may also require contractors performing construction or maintenance work on the project and companies providing operational and management services to obtain liability insurance having the district, its directors and employees as additional named insureds.

3. The district shall not attempt to self-insure for its potential liabilities unless it finds that it has sufficient funds available to cover any anticipated judgments or settlements and still complete its project without interruption. The district may self-insure if it is unable to

obtain liability insurance coverage at a rate which is economically feasible to the district, considering its resources.

67.1890. CHANGE IN DISTRICT BOUNDARIES, PROCEDURE. — 1. The boundaries of any district organized pursuant to sections 67.1860 to 67.1898 may be changed in the manner prescribed in this section; but any change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any change of boundaries not been made.

2. The boundaries may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed or deannexed may file with the board a petition in writing praying that such real property be included within, or removed from, the district. The petition shall describe the property to be included in, or removed from, the district and shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in, or removal from, the district of the property described in the petition. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo; provided that, in the event that there are more than twenty-five property owners or taxpaying electors signing the petition, it shall be deemed sufficient description of their property in the petition as required in this section to list the addresses of such property; or

(2) All of the owners of any territory or tract of land near or adjacent to a district in the case of annexation, or all of the owners of any territory or tract of land within a district in the case of deannexation, who own all of the real estate in such territory or tract of land may file a petition with the board praying that such real property be included in, or removed from, the district. The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in, or removal from, the district of the property described in the petition.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, which notice shall recite the filing of such petition, the number of petitioners, a general description of the boundaries of the area proposed to be included or removed and the prayer of the petitioners; giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned, or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted. The failure of any person interested to show cause in writing why such petition shall not be granted shall be deemed as an assent on his or her part to the inclusion of such lands in, or removal of such lands from, the district as prayed for in the petition.

4. If the board deems it for the best interest of the district, it shall grant the petition, but if the board determines in the case of annexation that some portion of the property mentioned in the petition cannot as a practical matter be served by the district, or if it deems in the case of annexation that it is in the best interest of the district that some portion of the property in the petition not be included in the district, or if in the case of deannexation it deems that it is impracticable for any portion of the property to be deannexed from the district, then the board shall grant the petition in part only. If the petition is granted, the board shall make an order to that effect and file the petition with the circuit clerk. Upon the order of the court having jurisdiction over the district, the property shall be included in, or removed from, the district. If the petition contains the

signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the property shall be included in, or removed from, the district upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed or deannexed pursuant to subdivision (1) of subsection 2 of this section, the property shall be included in, or removed from, the district subject to the election provided in section 67.1892. The circuit court having jurisdiction over the district shall proceed to make any such order including such additional property within the district, or removing such property from the district, as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

67.1892. VOTE REQUIRED FOR CHANGE IN BOUNDARIES, WHEN. — 1. If the petition to add or remove any territory or tract of land to the district contained fewer than all of the signatures required pursuant to subdivision (2) of subsection 2 of section 67.1890, the decree of extension or retraction of boundaries shall not become final and conclusive until it has been submitted to an election of the voters residing within the boundaries described in such decree and until it has been assented to by a majority vote of the voters in the newly included area, or the area to be removed, voting on the question. The decree shall also provide for the holding of the election to vote on the proposition of extending or retracting the boundaries of the district, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall the boundaries of the Law Enforcement District be (extended to include/retracted to remove) the following described property? (Describe property)

☐ YES ☐ NO

3. If a majority of the voters voting on the proposition vote in favor of the extension or retraction of the boundaries of the district, then the court shall enter its further order declaring the decree of extension or retraction of the boundaries to be final and conclusive. In the event, however, that the court finds that a majority of the voters voting thereon voted against the proposition to extend or retract the boundaries of the district, then the court shall enter its further order declaring the decree of extension or retraction of boundaries to be void and of no effect.

67.1894. TERMINATION OF TAXING AUTHORITY BY PETITION, PROCEDURE. — 1. The authority of the district to levy any property tax levied pursuant to section 67.1880 may be terminated by a petition of the voters in the district in the manner prescribed in this section.

2. The petition for termination of authority to tax may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the district may file with the board a petition in writing praying that the district's authority to impose a property tax be terminated. The petition shall specifically state that the district's authority to impose any property tax, whether or not such a tax is being imposed at the time such petition is filed, shall be terminated. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo; or

(2) All of the owners of real estate in the district may file a petition with the board praying that the district's authority to impose a property tax be terminated. The petition shall specifically state that the district's authority to impose any property tax, whether or not such a tax is being imposed at the time such petition is filed, shall be terminated. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo.

The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the petition.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, which notice shall recite the filing of such petition, the number of petitioners and the prayer of the petitioners; giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned, or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted.

4. If the board deems it for the best interest of the district, it shall grant the petition. If the petition is granted, the board shall make an order to that effect and file the petition with the circuit clerk. If the petition contains the signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the authority to tax shall be terminated upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the district pursuant to subdivision (1) of subsection 2 of this section, the authority to tax shall be terminated subject to the election provided in section 67.1896. The circuit court having jurisdiction over the district shall proceed to make any such order terminating such taxation authority as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

67.1896. VOTE REQUIRED FOR TERMINATION OF TAXING AUTHORITY, WHEN — BALLOT LANGUAGE. — 1. If the petition filed pursuant to section 67.1894 contained fewer than all of the signatures required pursuant to subdivision (2) of subsection 2 of section 67.1894, the termination of taxation authority shall not become final and conclusive until it has been submitted to an election of the voters residing within the district and until it has been assented to by at least four-sevenths of the voters in the district voting on the question. The decree shall also provide for the holding of the election to vote on the proposition, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall the authority of the Law Enforcement District to adopt property taxes be terminated?

☐ YES ☐ NO

3. If four-sevenths of the voters voting on the proposition vote in favor of such termination, then the court shall enter its further order declaring the termination of such authority, and all such taxes that are being assessed in the current calendar year pursuant to such authority, to be final and conclusive. In the event, however, that the court finds that less than four-sevenths of the voters voting thereon voted against the proposition to terminate such authority, then the court shall enter its further order declaring the decree of termination of such district's taxing authority to be void and of no effect.

67.1898. DISSOLUTION OF A DISTRICT, PROCEDURE. — 1. Whenever a petition signed by not less than ten percent of the registered voters in any district organized pursuant to sections 67.1860 to 67.1898 is filed with the circuit court having jurisdiction over the district, setting forth all the relevant facts pertaining to the district, and alleging that the further operation of the district is not in the best interests of the inhabitants of the district,

and that the district should, in the interest of the public welfare and safety, be dissolved, the circuit court shall have authority, after hearing evidence submitted on such question, to order a submission of the question, after having caused publication of notice of a hearing on such petition in the same manner as the notice required in section 67.1874, in substantially the following form:

Shall (Insert the name of the law enforcement district) Law Enforcement District be dissolved?

☐ YES ☐ NO

2. If the court shall find that it is to the best interest of the inhabitants of the district that such district be dissolved, it shall make an order reciting such finding and providing for the submission of the proposition to dissolve such district to a vote of the voters of the district, setting forth such further details in its order as may be necessary to an orderly conduct of such election. Such election shall be held at the municipal election. Returns of the election shall be certified to the court. If the court finds that a majority of the voters voting thereon shall have voted in favor of the proposition to dissolve the district, the court shall make a final order dissolving the district, and the decree shall contain a proviso that the district shall continue in full force for the purpose of paying all outstanding and lawful obligations and disposing of property of the district; but no additional costs or obligations shall be created except such as are necessary to pay such costs, obligations and liabilities previously incurred, or necessary to the winding up of the district. If the court shall find that a majority of the voters of the district voting thereon shall not have voted favorably on the proposition to dissolve such district, then the court shall make a final order declaring such result dismissing the petition praying for the dissolution of said district; and the district shall continue to operate in the same manner as though the petition asking for such dissolution has not been filed.

3. The dissolution of a district shall not invalidate or affect any right accruing to such district, or to any person, or invalidate or affect any contract or indebtedness entered into or imposed upon such district or person; and whenever the circuit court shall, pursuant to this section, dissolve a district, the court shall appoint some competent person to act as trustee for the district so dissolved and such trustee before entering upon the discharge of his or her duties shall take and subscribe an oath that he or she will faithfully discharge the duties of the office, and shall give bond with sufficient security, to be approved by the court to the use of such dissolved district, for the faithful discharge of his or her duties, and shall proceed to liquidate the district under orders of the court, including the levying of any taxes provided for in sections 67.1860 to 67.1898.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to guarantee adequate law enforcement protection for certain citizens of this state, sections 67.1860 to 67.1898 are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and sections 67.1860 to 67.1898 shall be in full force and effect upon their passage and approval.

Approved May 16, 2001

SB 227 [HCS SB 227]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Beneficiary designations made on or after August 28, 1989, shall be presumed resolved upon divorce.

AN ACT to repeal section 461.073, RSMo 2000, relating to nonprobate transfers, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

461.073. Scope and application of law.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 461.073, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 461.073, to read as follows:

461.073. SCOPE AND APPLICATION OF LAW. — 1. Subject to the provisions of section 461.079, sections 461.003 to 461.081 apply to a nonprobate transfer on death if at the time the owner designated the beneficiary:

- (1) The owner was a resident of this state;
- (2) The obligation to pay or deliver arose in this state or the property was situated in this state; or
- (3) The transferring entity was a resident of this state or had a place of business in this state or the obligation to make the transfer was accepted in this state.

2. The direction for a nonprobate transfer on death of the owner and the obligation to execute the nonprobate transfer remain subject to the provisions of sections 461.003 to 461.081 despite a subsequent change in the beneficiary, in the rules of the transferring entity under which the transfer is to be executed, in the residence of the owner, in the residence or place of business of the transferring entity or in the location of the property.

3. Sections 461.003 to 461.045 and 461.059 to 461.065 do not apply to accounts or deposits in financial institutions unless the provisions of sections 461.003 to 461.081 are incorporated into the certificate, account or deposit agreement in whole or in part by express reference.

4. Sections 461.003 to 461.081 apply to transfer on death directions given to a personal custodian under the Missouri personal custodian law to the extent that they do not conflict with section 404.560, RSMo.

5. Sections 461.003 to 461.045 and 461.059 to 461.065 do not apply to certificates of ownership or title issued by the director of revenue.

6. Sections 461.003 to 461.045, **461.051** and 461.059 to 461.081 do not apply to property, money or benefits paid or transferred at death pursuant to a life or accidental death insurance policy, annuity, contract, plan or other product sold or issued by a life insurance company unless the provisions of sections 461.003 to 461.081 are incorporated into the policy or beneficiary designation in whole or in part by express reference.

7. Sections 461.003 to 461.045 and 461.059 to 461.065 do not apply to any nonprobate transfer where the governing instrument or law expressly provides that the nonprobate transfers law of Missouri shall not apply.

8. Section 461.051 shall not apply to any employee benefit plan governed by 29 U.S.C. Section 1001 et seq.

Approved July 10, 2001

SB 234 [SCS SB 234]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the sales tax exemption for telecommunication services.

AN ACT to repeal section 144.010, RSMo 2000, relating to sales tax on telecommunication services, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

144.010. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.010, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 144.010, to read as follows:

144.010. DEFINITIONS. — 1. The following words, terms, and phrases when used in sections 144.010 to 144.525 have the meanings ascribed to them in this section, except when the context indicates a different meaning:

(1) "Admission" includes seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amount paid for admission, exclusive of any admission tax imposed by the federal government or by sections 144.010 to 144.525;

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.525. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

(3) "Gross receipts", except as provided in section 144.012, means the total amount of the sale price of the sales at retail including any services other than charges incident to the extension of credit that are a part of such sales made by the businesses herein referred to, capable of being valued in money, whether received in money or otherwise; except that, the term "gross receipts" shall not include the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. In determining any tax due under sections 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the sale price above mentioned shall be deemed to be the amount received. It shall also include the lease or rental consideration where the right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made and, in such cases, the same shall be taxable as if outright sale were made and considered as a sale of such article, and the tax shall be computed and paid by the lessee upon the rentals paid;

(4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised in confinement for human consumption;

(5) "Motor vehicle leasing company" shall be a company obtaining a permit from the director of revenue to operate as a motor vehicle leasing company. Not all persons renting or leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to

obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section 144.070, as hereinafter provided;

(6) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the state transportation department, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;

(7) "Purchaser" means a person who purchases tangible personal property or to whom are rendered services, receipts from which are taxable under sections 144.010 to 144.525;

(8) "Research or experimentation activities", are the development of an experimental or pilot model, plant process, formula, invention or similar property, and the improvement of existing property of such type. Research or experimentation activities do not include activities such as ordinary testing or inspection of materials or products for quality control, efficiency surveys, advertising promotions or research in connection with literary, historical or similar projects;

(9) "Sale" or "sales" includes installment and credit sales, and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale, and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for valuable consideration and the rendering, furnishing or selling for a valuable consideration any of the substances, things and services herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

(10) "Sale at retail" means any transfer made by any person engaged in business as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists, optometrists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts, computer output or microfilm or microfiche and computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his or her own use the desired information contained in such computer printouts, computer output on microfilm or microfiche and computer-assisted photo compositions shall be considered as the sale of a service and not as the sale of tangible personal property. Where necessary to conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

(a) Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events;

(b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(c) Sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations, and the sale, rental or leasing of all equipment or services pertaining or incidental thereto;

(d) Sales of service for transmission of messages by telegraph companies;

(e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in which rooms, meals or drinks are regularly served to the public;

(f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(11) "Seller" means a person selling or furnishing tangible personal property or rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

(12) The noun "tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which he or she is required to report his or her collections, as the context may require;

(13) "Telecommunications service", for the purpose of chapter 144, the transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include the following if such services are separately stated on the customer's bill **or on records of the seller maintained in the ordinary course of business:**

(a) Access to the Internet, access to interactive computer services or electronic publishing services, except the amount paid for the telecommunications service used to provide such access;

(b) Answering services and one-way paging services;

(c) Private mobile radio services which are not two-way commercial mobile radio services such as wireless telephone, personal communications services or enhanced specialized mobile radio services as defined pursuant to federal law; or

(d) Cable or satellite television or music services; and

(14) "Product which is intended to be sold ultimately for final use or consumption" means tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state.

2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other provisions of law pertaining to sales or use taxes which incorporate the provisions of sections 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning given it in section 700.010, RSMo.

3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

Approved July 12, 2001

SB 236 [CCS#2 HS HCS SCS SB 236]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds first cousins to the list of relatives eligible for adoption subsidies.

AN ACT to repeal sections 208.028, 208.029, 208.040, 453.005, 453.072 and 453.170, RSMo 2000, relating to children and families, and to enact in lieu thereof nine new sections relating to the same subject.

SECTION

A. Enacting clause.

208.040. Temporary assistance benefits — eligibility for — assignment of rights to support to state, when, effect of.

208.146. Continuation of medical assistance for employed disabled persons, when, criteria — premiums collected, when.

208.819. Transition to independence grants created, eligibility, amount — information and training developed.

453.005. Construction of sections 453.010 to 453.400 — ethnic and racial diversity considerations.

453.072. Qualified relatives to receive subsidies, when.

453.170. Adoption under laws of other states or countries, requirements, effect.

- 453.320. Definitions.
453.325. Grandparents as foster parents program established — eligibility requirements — services provided.
1. Child care provided on elementary and secondary school property must comply with child care licensure provisions.
208.028. Definitions.
208.029. Grandparents as foster parents program established — eligibility — program requirements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.028, 208.029, 208.040, 453.005, 453.072 and 453.170, RSMo 2000, are repealed and nine new sections enacted in lieu thereof, to be known as sections 208.040, 208.146, 208.819, 453.005, 453.072, 453.170, 453.320, 453.325 and 1, to read as follows:

208.040. TEMPORARY ASSISTANCE BENEFITS — ELIGIBILITY FOR — ASSIGNMENT OF RIGHTS TO SUPPORT TO STATE, WHEN, EFFECT OF. — 1. Temporary assistance benefits shall be granted on behalf of a dependent child or children and may be granted to the parents or other needy eligible relative caring for a dependent child or children who:

(1) Is under the age of eighteen years; or is under the age of nineteen years and a full-time student in a secondary school (or at the equivalent level of vocational or technical training), if before the child attains the age of nineteen the child may reasonably be expected to complete the program of the secondary school (or vocational or technical training);

(2) Has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece, in a place of residence maintained by one or more of such relatives as the child's own home, and financial aid for such child is necessary to save the child from neglect and to secure for the child proper care in such home. Physical or mental incapacity shall be certified to by competent medical or other appropriate authority designated by the division of family services, and such certificate is hereby declared to be competent evidence in any proceedings concerning the eligibility of such claimant to receive aid to families with dependent children benefits. Benefits may be granted and continued for this reason only while it is the judgment of the division of family services that a physical or mental defect, illness or disability exists which prevents the parent from performing any gainful work;

(3) Is not receiving supplemental aid to the blind, blind pension, supplemental payments, or aid or public relief as an unemployable person;

(4) Is a resident of the state of Missouri.

2. The division of family services shall require as additional conditions of eligibility for benefits that each applicant for or recipient of aid:

(1) Shall furnish to the division the applicant or recipient's Social Security number or numbers, if the applicant or recipient has more than one such number;

(2) Shall assign to the division of family services in behalf of the state any rights to support from any other person such applicant may have in the applicant's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. An application for benefits made under this section shall constitute an assignment of support rights which shall take effect, by operation of law, upon a determination that the applicant is eligible for assistance under this section. The assignment is effective as to both current and accrued support obligations and authorizes the division of child support enforcement of the department of social services to bring any administrative or judicial action to establish or enforce a current support obligation, to collect support arrearages accrued under an existing order for support, or to seek reimbursement of support provided by the division;

(3) Shall cooperate with the divisions of family services and of child support enforcement unless the division of family services determines in accordance with federally prescribed

standards that such cooperation is contrary to the best interests of the child on whose behalf aid is claimed or to the caretaker of such child, in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child. The divisions of family services and of child support enforcement shall impose all penalties allowed pursuant to federal participation requirements;

(4) Shall cooperate with the department of social services in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for medical assistance as provided in section 208.152, unless such individual has good cause for refusing to cooperate as determined by the department of social services in accordance with federally prescribed standards; and

(5) Shall participate in any program designed to reduce the recipient's dependence on welfare, if requested to do so by the department of social services.

3. The division shall require as a condition of eligibility for temporary assistance benefits that a minor child under the age of eighteen who has never married and who has a dependent child in his or her care, or who is pregnant and otherwise eligible for temporary assistance benefits, shall reside in a place of residence maintained by a parent, legal guardian, or other adult relative or in some other adult-supervised supportive living arrangement, as required by Section 403 of P.L. 100-485. Exceptions to the requirements of this subsection shall be allowed in accordance with requirements of the federal Family Support Act of 1988 in any of the following circumstances:

(1) The individual has no parent or legal guardian who is living or the whereabouts of the individual's parent or legal guardian is unknown; or

(2) The division of family services determines that the physical health or safety of the individual or the child of the individual would be jeopardized; or

(3) The individual has lived apart from any parent or legal guardian for a period of at least one year prior to the birth of the child or applying for benefits; or

(4) The individual claims to be or to have been the victim of abuse while residing in the home where she would be required to reside and the case has been referred to the child abuse hotline and a "reason to suspect finding" has been made. Households where the individual resides with a parent, legal guardian or other adult relative or in some other adult-supervised supportive living arrangement shall, subject to federal waiver to retain full federal financial participation and appropriation, have earned income disregarded from eligibility determinations up to one hundred percent of the federal poverty level.

4. If the relative with whom a child is living is found to be ineligible because of refusal to cooperate as required in subdivision (3) of subsection 2 of this section, any aid for which such child is eligible will be paid in the manner provided in subsection 2 of section 208.180, without regard to subsections 1 and 2 of this section.

5. The department of social services may implement policies designed to reduce a family's dependence on welfare. The department of social services is authorized to implement these policies by rule promulgated pursuant to section 660.017, RSMo, and chapter 536, RSMo, including the following:

(1) The department shall increase the earned income and resource disregards allowed recipients to help families achieve a gradual transition to self-sufficiency, including implementing policies to simplify employment-related eligibility standards by increasing the earned income disregard to two-thirds by October 1, 1999. The expanded earned income disregard shall apply only to recipients of cash assistance who obtain employment but not to new applicants for cash assistance who are already working. Once the individual has received the two-thirds disregard for twelve months, the individual would not be eligible for the two-thirds disregard until the individual has not received temporary assistance benefits for twelve consecutive months. The

department shall promulgate rules pursuant to chapter 536, RSMo, to implement the expanded earned income disregard provisions;

(2) **The department shall permit a recipient's enrollment in educational programs beyond secondary education to qualify as a work activity for purposes of receipt of temporary assistance for needy families. Such education beyond secondary education shall qualify as a work activity if such recipient is attending and according to the standards of the institution and the division of family services, making satisfactory progress towards completion of a postsecondary or vocational program. Weekly classroom time and allowable study time shall be applied toward the recipient's weekly work requirement. Such recipient shall be subject to the sixty-month lifetime limit for receipt of temporary assistance for needy families unless otherwise excluded by rule of the division of family services;**

(3) **Beginning January 1, 2002, and every two years thereafter, the department of social services shall make a detailed report and a presentation on the temporary assistance for needy families program to the house appropriations for social services committee and the house social services, Medicaid and the elderly committee, and the senate aging, families and mental health committee, or comparable committees;**

(4) **Other policies designed to reduce a family's dependence on welfare may include supplementing wages for recipients for the lesser of forty-eight months or the length of the recipient's employment by diverting the temporary assistance grant.**

The provisions of this subsection shall be subject to compliance by the department with all applicable federal laws and rules regarding temporary assistance for needy families.

6. The work history requirements and definition of "unemployed" shall not apply to any parents in order for these parents to be eligible for assistance pursuant to section 208.041.

7. The department shall continue to apply uniform standards of eligibility and benefits, excepting pilot projects, in all political subdivisions of the state.

8. Consistent with federal law, the department shall establish income and resource eligibility requirements that are no more restrictive than its July 16, 1996, income and resource eligibility requirements in determining eligibility for temporary assistance benefits.

208.146. CONTINUATION OF MEDICAL ASSISTANCE FOR EMPLOYED DISABLED PERSONS, WHEN, CRITERIA — PREMIUMS COLLECTED, WHEN. — 1. Pursuant to the federal Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA) (Public Law 106-170), the medical assistance provided for in section 208.151 may be paid for a person who is employed and who:

(1) **Meets the definition of disabled under the supplemental security income program or meets the definition of an employed individual with a medically improved disability under TWWIIA;**

(2) **Meets the asset limits in subsection 2 of this section; and**

(3) **Has a gross income of two hundred fifty percent or less of the federal poverty guidelines. For purposes of this subdivision, "income" does not include any income of the person's spouse up to one hundred thousand dollars or children. Individuals with incomes in excess of one hundred fifty percent of the federal poverty level shall pay a premium for participation in accordance with subsection 5 of this section.**

2. For purposes of determining eligibility pursuant to this section, a person's assets shall not include:

(1) **Any spousal assets up to one hundred thousand dollars, one-half of any marital assets and all assets excluded pursuant to section 208.010;**

(2) **Retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans and pension plans;**

(3) **Medical expense accounts set up through the person's employer;**

(4) Family development accounts established pursuant to sections 208.750 to 208.775; or

(5) PASS plans.

3. A person who is otherwise eligible for medical assistance pursuant to this section shall not lose his or her eligibility if such person maintains an independent living development account. For purposes of this section, an "independent living development account" means an account established and maintained to provide savings for transportation, housing, home modification, and personal care services and assistive devices associated with such person's disability. Independent living development accounts and retirement accounts pursuant to subdivision (2) of subsection 2 of this section shall be limited to deposits of earned income and earnings on such deposits made by the eligible individual while participating in the program and shall not be considered an asset for purposes of determining and maintaining eligibility pursuant to section 208.151 until such person reaches the age of sixty-five.

4. If an eligible individual's employer offers employer-sponsored health insurance and the department of social services determines that it is more cost effective, the individual shall participate in the employer-sponsored insurance. The department shall pay such individual's portion of the premiums, co-payments and any other costs associated with participation in the employer-sponsored health insurance.

5. Any person whose income exceeds one hundred fifty percent of the federal poverty level shall pay a premium for participation in the medical assistance provided in this section. The premium shall be:

(1) For a person whose income is between one hundred fifty-one and one hundred seventy-five percent of the federal poverty level, four percent of income at one hundred sixty-three percent of the federal poverty level;

(2) For a person whose income is between one hundred seventy-six and two hundred percent of the federal poverty level, five percent of income at one hundred eighty-eight percent of the federal poverty level;

(3) For a person whose income is between two hundred one and two hundred twenty-five percent of the federal poverty level, six percent of income at two hundred thirteen percent of the federal poverty level;

(4) For a person whose income is between two hundred twenty-six and two hundred fifty percent of the federal poverty level, seven percent of income at two hundred thirty-eight percent of the federal poverty level.

6. If the department elects to pay employer-sponsored insurance pursuant to subsection 4 of this section then the medical assistance established by this section shall be provided to an eligible person as a secondary or supplemental policy to any employer-sponsored benefits which may be available to such person.

7. The department of social services shall submit the appropriate documentation to the federal government for approval which allows the resources listed in subdivisions (1) to (5) of subsection 2 of this section and subsection 3 of this section to be exempt for purposes of determining eligibility pursuant to this section.

8. The department of social services shall apply for any and all grants which may be available to offset the costs associated with the implementation of this section.

9. The department of social services shall not contract for the collection of premiums pursuant to this chapter. To the best of their ability, the department shall collect premiums through the monthly electronic funds transfer or employer deduction.

10. Recipients of services through this chapter who pay a premium shall do so by electronic funds transfer or employer deduction unless good cause is shown to pay otherwise.

208.819. TRANSITION TO INDEPENDENCE GRANTS CREATED, ELIGIBILITY, AMOUNT — INFORMATION AND TRAINING DEVELOPED. — 1. Persons institutionalized in nursing homes who are Medicaid eligible and who wish to move back into the community shall be eligible for a one-time Missouri transition to independence grant. The Missouri transition to independence grant shall be limited to up to fifteen hundred dollars to offset the initial down payments and setup costs associated with housing a person with disabilities as such person moves out of a nursing home. Such grants shall be established and administered by the division of vocational rehabilitation in consultation with the department of social services. The division of vocational rehabilitation and the department of social services shall cooperate in actively seeking federal and private grant moneys to fund this program; except that, such federal and private grant moneys shall not limit the general assembly's ability to appropriate moneys for the Missouri transition to independence grants.

2. The division of medical services within the department of social services, the department of health and senior services and the division of vocational rehabilitation within the department of elementary and secondary education shall work together to develop information and training on community-based service options for residents transitioning into the community. Representatives of disability-related community organizations shall complete such training before initiating contact with institutionalized individuals.

453.005. CONSTRUCTION OF SECTIONS 453.010 TO 453.400 — ETHNIC AND RACIAL DIVERSITY CONSIDERATIONS. — 1. The provisions of sections 453.005 to 453.400 shall be construed so as to promote the best interests and welfare of the child in recognition of the entitlement of the child to a permanent and stable home.

2. The division of family services and all persons involved in the adoptive placement of children as provided in subdivisions (1), (2) and (4) of section 453.014, shall provide for the diligent recruitment of potential adoptive homes that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed.

3. [In the selection of an adoptive home, consideration shall be given to both a child's cultural, racial and ethnic background and the capacity of the adoptive parents to meet the needs of a child of a specific background, as one of a number of factors used in determining whether a placement is in the child's best interests. This factor must, however, be applied on an individualized basis, not by general rules.

4.] Placement of a child in an adoptive home may not be delayed or denied on the basis of race, color or national origin.

453.072. QUALIFIED RELATIVES TO RECEIVE SUBSIDIES, WHEN. — Any subsidies available to adoptive parents pursuant to section 453.073 and section 453.074 shall also be available to a qualified relative of a child who is granted legal guardianship of the child in the same manner as such subsidies are available for adoptive parents. As used in this section "relative" means any grandparent, aunt, uncle [or], adult sibling of the child **or adult first cousin of the child.**

453.170. ADOPTION UNDER LAWS OF OTHER STATES OR COUNTRIES, REQUIREMENTS, EFFECT. — 1. When an adoption occurs pursuant to the laws of other states of the United States, Missouri shall, from the date of adoption hold the adopted person to be for every purpose the lawful child of its parent or parents by adoption as fully as though born to them in lawful wedlock, and such adoption shall have the same force and effect as adoption pursuant to the provisions of this chapter, including all inheritance rights.

2. When an adoption occurs in a foreign country and [is recognized as a valid adoption by] **the adopted child has migrated to the United States with the permission of** the United States Department of Justice and the United States Department of Immigration and Naturalization

Services, this state shall recognize the adoption. The department of health, upon receipt of proof of adoption as required in subsection 7 of section 193.125, RSMo, shall issue a birth certificate for the adopted child upon request on forms prescribed and furnished by the state registrar pursuant to section 193.125, RSMo.

3. The adoptive parent or parents may petition the court pursuant to this section to request a change of name. The petition shall include a certified copy of the decree of adoption issued by the foreign country and documentation from the United States Department of Justice and the United States Department of Immigration and Naturalization Services which shows the child lawfully entered the United States. The court shall recognize and give effect to the decree of the foreign country and grant a decree of recognition of the adoption and shall change the name of the adopted child to the name given by the adoptive parent, if such a request has been made.

453.320. DEFINITIONS. — As used in this section and section 453.325, the following terms shall mean:

- (1) "Division", the division of family services in the department of social services;
- (2) "Maintenance of effort", state funds appropriated for the aid to families with dependent children (AFDC), emergency assistance, AFDC-related child care and the JOBS program;
- (3) "Temporary assistance for needy families", the federal block grant moneys available to the state for public assistance benefits and programs authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and commonly known as "TANF".

453.325. GRANDPARENTS AS FOSTER PARENTS PROGRAM ESTABLISHED — ELIGIBILITY REQUIREMENTS — SERVICES PROVIDED. — 1. The division of family services in the department of social services shall, subject to appropriations, establish the "Grandparents as Foster Parents Program". The grandparents as foster parents program recognizes that:

- (1) Raising a grandchild differs from when the grandparents raised their own children;
- (2) Caring for a grandchild often places additional financial, social and psychological strain on grandparents with fixed incomes;
- (3) Different parenting skills are necessary when raising a grandchild and many grandparents do not possess such skills, are not aware of how to obtain such skills and cannot afford access to the services necessary to obtain such skills;
- (4) Grandparents, like nonrelative foster parents, need a support structure, including counseling for the grandchild and caretaker, respite care and transportation assistance and child care;
- (5) The level of care provided by grandparents does not differ from nonrelative foster care, but reimbursement for such care is substantially less for grandparents; and
- (6) Grandparents are often unaware of the cash assistance alternatives to the federal TANF block grant funds which are available to support the grandchildren placed in their care.

2. A grandparent shall be eligible to participate in the grandparents as foster parents program if such grandparent:

- (1) Is fifty years of age or older;
 - (2) Is the legal guardian of a grandchild placed in such grandparent's custody;
 - (3) Has an annual household income of less than two hundred percent of the federal poverty level; and
 - (4) Participates in the training available through the division pursuant to subsection 4 of this section.
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The division shall annually review the eligibility of grandparents participating in the program.

3. If there are no grandparents of a child who are willing to participate in the grandparents as foster parents program, the division may include in the program any other close relative who becomes the legal guardian of the child or obtains legal custody of the child, as granted by a court of competent jurisdiction if such relative also meets the requirements of subdivisions (1), (3) and (4) of subsection 2 of this section.

4. Subject to appropriations, the grandparents as foster parents program:

(1) Shall provide reimbursement up to seventy-five percent of the current foster care payment schedule to eligible grandparents, as defined in subsection 2 of this section, for the care of a grandchild;

(2) Shall establish program requirements, including, but not limited to, participation in foster parent training, parenting skills training, childhood immunizations and other similar health screens;

(3) Shall provide continuing counseling for the child and grandparent;

(4) May provide support services, including, but not limited to, respite care, child care and transportation assistance. Eligibility for child care services pursuant to this program shall be based on the same eligibility criteria used for other child care benefits provided by the division of family services;

(5) Shall provide Medicaid services to such child;

(6) May provide ancillary services, such as child care, respite care, transportation assistance and clothing allowances, but not direct financial payments to the participants in the program after such participants complete the training required in subdivision (2) of this subsection; and

(7) Shall establish criteria for the reduction in cash benefits received by any grandparent providing care for three or more grandchildren pursuant to the grandparents as foster parents program.

5. Funding for cash benefits and other assistance provided to eligible grandparents shall be made from the state maintenance of effort funds. The provisions of this section shall not be construed to create an entitlement for participants in the program.

6. Grandparents who are either under fifty years of age, or are fifty years of age or older and refuse to participate in the training pursuant to subsection 2 of this section but who meet the requirements of subdivisions (1), (2) and (3) of subsection 2 of this section, may apply to the division for foster care reimbursement and assistance. Such cash and noncash assistance shall be funded through the TANF funds. Any work participation and time limit requirements pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, shall apply to all such persons.

SECTION 1. CHILD CARE PROVIDED ON ELEMENTARY AND SECONDARY SCHOOL PROPERTY MUST COMPLY WITH CHILD CARE LICENSURE PROVISIONS. — Any program licensed by the department of health pursuant to chapter 210, RSMo, providing child care to school age children that is located and operated on elementary or secondary school property shall comply with the child care licensure provisions in chapter 210, RSMo; except that, for safety, health and fire purposes, all buildings and premises for any such programs shall be deemed to be in compliance with the child care licensure provisions in Chapter 210, RSMo.

[208.028. DEFINITIONS. — As used in this section and section 208.029, the following terms shall mean:

(1) "Division", the division of family services in the department of social services;

(2) "Maintenance of effort", state funds appropriated for the aid to families with dependent children (AFDC), emergency assistance, AFDC-related child care and the JOBS program;

(3) "Temporary assistance for needy families", the federal block grant moneys available to the state for public assistance benefits and programs authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and commonly known as "TANF".]

[208.029. GRANDPARENTS AS FOSTER PARENTS PROGRAM ESTABLISHED — ELIGIBILITY — PROGRAM REQUIREMENTS. — 1. The division of family services in the department of social services shall establish the "Grandparents as Foster Parents Program". The grandparents as foster parents program recognizes that:

(1) Raising a grandchild differs from when the grandparents raised their own children;

(2) Caring for a grandchild often places additional financial, social and psychological strain on grandparents with fixed incomes;

(3) Different parenting skills are necessary when raising a grandchild and many grandparents do not possess such skills, are not aware of how to obtain such skills and cannot afford access to the services necessary to obtain such skills;

(4) Grandparents, like nonrelative foster parents, need a support structure, including counseling for the grandchild and caretaker, respite care and transportation assistance and child care;

(5) The level of care provided by grandparents does not differ from nonrelative foster care, but reimbursement for such care is substantially less for grandparents; and

(6) Grandparents are often unaware of the cash assistance alternatives to the federal TANF block grant funds which are available to support the grandchildren placed in their care.

2. A grandparent shall be eligible to participate in the grandparents as foster parents program if such grandparent:

(1) Is fifty years of age or older;

(2) Is the legal guardian of a grandchild placed in such grandparent's custody; and

(3) Participates in the training available through the division pursuant to subsection 4 of this section.

3. If there are no grandparents of a child who are willing to participate in the grandparents as foster parents program, the division may include in the program any other close relative who becomes the legal guardian of the child or obtains legal custody of the child, as granted by a court of competent jurisdiction if such relative also meets the requirements of subdivisions (1) and (3) of subsection 2 of this section.

4. The grandparents as foster parents program shall:

(1) Provide reimbursement based on the current foster care payment schedule to eligible grandparents, as defined in subsection 2 of this section, for the care of a grandchild;

(2) Establish program requirements, including, but not limited to, participation in foster parent training, parenting skills training, childhood immunizations and other similar health screens;

(3) Provide continuing counseling for the child and grandparent;

(4) Provide support services, including, but not limited to, respite care, child care and transportation assistance;

(5) Provide Medicaid services to such child; and

(6) Provide ancillary services, such as child care, respite, transportation assistance and clothing allowances, but not direct financial payments to the participants in the program after such participants complete the training required in subdivision (2) of this subsection.

5. Funding for cash benefits and other assistance provided to eligible grandparents shall be made from the state maintenance of effort funds.

6. Grandparents who are either under fifty years of age, or are fifty years of age or older and refuse to participate in the training pursuant to subsection 2 of this section, may apply to the division for foster care reimbursement and assistance. Such cash and noncash assistance shall be funded through the TANF funds. Any work participation and time limit requirements

pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, shall apply to all such persons.]

Approved July 6, 2001

SB 241 [SCS SB 241]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows mutual insurance companies to notify policyholders via newspaper under certain merger conditions.

AN ACT to repeal section 375.355, RSMo 2000, relating to mergers of insurance companies, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

375.355. Acquisition of control of one company by another, director may authorize, procedure, exceptions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 375.355, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 375.355, to read as follows:

375.355. ACQUISITION OF CONTROL OF ONE COMPANY BY ANOTHER, DIRECTOR MAY AUTHORIZE, PROCEDURE, EXCEPTIONS. — 1. Any insurance company organized under the laws of this state may hereafter, with the approval of the director first obtained,

(1) Organize any subsidiary insurance company in which it shall own and hold not less than a majority of the common stock; or

(2) Acquire **control of another insurance company** by purchase, merger or otherwise [and hold not less than a majority of the stock of any other insurance company], regardless of the domicile of any company so organized or acquired, for the purpose of operating any such company under a plan of common control.

2. Whenever any insurance company shall propose under the provisions of this section to acquire **control of another insurance company** by purchase, **merger** or otherwise [not less than a majority of the stock of any other insurance company] or to dispose of any stock so purchased or so acquired, it shall present its petition to the director setting forth the terms and conditions of the proposed acquisition or disposition and praying for the approval of the acquisition or disposition. The director shall thereupon issue an order of notice, requiring notice to be given, to the policyholders of a mutual company and stockholders of a stock company, of the pendency of the petition, and the time and place at which the same will be heard, by publication of the order of notice in two daily newspapers designated by the director for at least once a week for two weeks before the time appointed for the hearing upon the petition; and any further notice which the director may require shall be given by the petitioners. At the time and place fixed in the notice, or at such time and place as shall be fixed by adjournment, the director shall proceed with the hearing, and may make such examination into the affairs and conditions of the companies as he may deem proper. For the purpose of making the examination, or having the same made, the director may employ the necessary clerical, actuarial, legal, and other assistance. The director of the insurance department of this state shall have the same power to summon and compel the attendance and testimony of witnesses and the production of books and

papers at the hearing as by law granted in examinations of companies. Any policyholder or stockholder of the company or companies may appear before the director and be heard in reference to the petition. The director, if satisfied that the **proposed acquisition or disposition was properly approved after notice as required by the articles and bylaws of the company or companies, and that the** interest of the policyholders of the company or companies is protected, and that no reasonable objection exists as to the acquisition or disposition, and that the acquisition will not tend to substantially lessen competition or create a monopoly, shall approve and authorize the proposed acquisition or disposition. All expenses and costs incident to the proceedings under this subsection shall be paid by the company or companies bringing the petition.

3. The shares of any subsidiary life insurance company acquired or held under the provisions of this section by a parent life insurance company organized under the provisions of chapter 376, RSMo, shall be eligible for deposit by the parent life insurance company as provided in section 376.170, RSMo, at a value no greater than the proportion of the capital and surplus of the subsidiary company as shown by its last annual statement filed in the state of its domicile represented by the shares held by the parent life insurance company, but only to the extent that the capital and surplus is represented by cash or securities of the kind and type eligible for deposit under the provisions of section 376.170, RSMo, and other applicable statutes.

4. (1) The provisions of this section shall not apply to the acquisition or disposition by purchase, sale or otherwise of not less than the majority of the stock of any insurance company domiciled outside of the state of Missouri, if the consideration involved in such acquisition or disposition does not exceed the following threshold:

(a) With respect to an insurance holding company, so long as such consideration does not exceed the lesser of three percent of its consolidated assets or twenty percent of its consolidated stockholders' equity as of the thirty-first day of December of the preceding year according to its consolidated balance sheet prepared in accordance with generally accepted accounting principles and audited by independent certified accountants in accordance with generally acceptable auditing standards; or

(b) With respect to an insurance company organized under the laws of this state, so long as such consideration does not exceed the lesser of three percent of its assets or ten percent of its capital and surplus as of the thirty-first day of December of the preceding year according to its balance sheet prepared in accordance with accounting practices prescribed or permitted by the department of insurance and in conformity with the practices of the National Association of Insurance Commissioners and audited by independent certified accountants in accordance with generally acceptable auditing standards.

(2) In calculating the amount of consideration involved in such acquisition or disposition for the purposes of subdivision (1) of this subsection, there shall be included total net moneys or other consideration expended, and obligations assumed in the acquisition or disposition, including all organizational expenses and contributions to capital and surplus of such insurance company domiciled outside of the state of Missouri, whether represented by the purchase of capital stock or issuance of other securities. For the purposes of this subsection, the term "insurance holding company" means a domestic insurance holding company in which the majority of stock is owned by a domestic insurance company, or a domestic insurance holding company which owns the majority of the stock of a domestic insurance company.

Approved July 10, 2001

SB 244 [CCS HCS SS SB 244]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Suspends a person's driver's license who steals gas from a gas station.

AN ACT to repeal sections 301.260, 302.173, 304.015, 304.035, 304.180, 304.580, 307.173 and 307.375, RSMo 2000, and to enact in lieu thereof thirteen new sections relating to motor vehicles and equipment, with penalty provisions.

SECTION

- A. Enacting clause.
- 226.003. Public rest areas, department of transportation not to contract for the operation of truck stops, fueling stations, convenience stores or restaurants.
- 301.260. State and municipally owned motor vehicles — public schools and colleges courtesy or driver training vehicles — regulations.
- 302.173. Driver's examination required, when — exceptions — procedure.
- 302.286. Theft of motor fuel punishable by suspension of driver's license — reinstatement fee required.
- 304.015. Drive on right of highway — traffic lanes — signs — violations, penalties.
- 304.035. Stop required at railroad grade crossing, when — penalty.
- 304.180. Regulations as to weight — axle load, tandem axle defined.
- 304.580. Highway construction or work zones defined, motor vehicle moving violations, penalty.
- 307.173. Specifications for vision-reducing material applied to windshield or windows — violations, penalty — rules, procedure — exception.
- 307.375. Inspection of school buses — items covered — violations, when corrected, notice to patrol — spot checks authorized.
- 414.407. EPAct credit banking and selling program established — definitions — biodiesel fuel revolving fund created — rulemaking authority — study on the use of alternative fuels in motor vehicles, contents.
- 431.181. Payments for the transportation of property to be made within thirty days after delivery, when — warranty repair work, reimbursement, rates.
 - 1. Retro reflective sheeting for school warning signs, grants issued by department to local governments, procedure — rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.260, 302.173, 304.015, 304.035, 304.180, 304.580, 307.173 and 307.375, RSMo 2000, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 226.003, 301.260, 302.173, 302.286, 304.015, 304.035, 304.180, 304.580, 307.173, 307.375, 414.407, 431.181 and 1, to read as follows:

226.003. PUBLIC REST AREAS, DEPARTMENT OF TRANSPORTATION NOT TO CONTRACT FOR THE OPERATION OF TRUCK STOPS, FUELING STATIONS, CONVENIENCE STORES OR RESTAURANTS. — Notwithstanding any other provision of law or rule to the contrary, the department of transportation is hereby prohibited from contracting with private entities or vendors to operate truck stops, fueling stations, convenience stores or restaurants on or near interstate public rest areas. The department shall examine and research the Vermont and Utah state programs, which have phased out interstate public rest areas and instead have implemented a public/private partnership with designated interstate rest exits. Nothing in this section shall prohibit the department from maintaining existing interstate public rest areas or constructing new interstate public rest areas consistent with this section.

301.260. STATE AND MUNICIPALLY OWNED MOTOR VEHICLES — PUBLIC SCHOOLS AND COLLEGES COURTESY OR DRIVER TRAINING VEHICLES — REGULATIONS. — 1. The director of revenue shall issue certificates for all cars owned by the state of Missouri and shall assign to each of such cars two plates bearing the words: "State of Missouri, official car number" (with the number inserted thereon), which plates shall be displayed on such cars when they are being used on the highways. No officer or employee or other person shall use such a motor vehicle for other than official use.

2. Motor vehicles used as ambulances, patrol wagons and fire apparatus, owned by any municipality of this state, shall be exempt from all of the provisions of sections 301.010 to

301.440 while being operated within the limits of such municipality, but the municipality may regulate the speed and use of such motor vehicles owned by them; and all other motor vehicles owned by municipalities, counties and other political subdivisions of the state shall be exempt from the provisions of sections 301.010 to 301.440 requiring registration, proof of ownership and display of number plates; provided, however, that there shall be displayed on each side of such motor vehicle, in letters not less than three inches in height with a stroke of not less than three-eighths of an inch wide, the name of such municipality, county or political subdivision, the department thereof, and a distinguishing number. Provided, further, that when any motor vehicle is owned and operated exclusively by any school district and used solely for transportation of school children, the commissioner shall assign to each of such motor vehicles two plates bearing the words "School Bus, State of Missouri, car no." (with the number inserted thereon), which plates shall be displayed on such motor vehicles when they are being used on the highways. No officer, or employee of the municipality, county or subdivision, or any other person shall operate such a motor vehicle unless the same is marked as herein provided, and no officer, employee or other person shall use such a motor vehicle for other than official purposes.

3. For registration purposes only, a public school or college shall be considered the temporary owner of a vehicle acquired from a new motor vehicle franchised dealer which is to be used as a courtesy vehicle or a driver training vehicle. The school or college shall present to the director of revenue a copy of a lease agreement with an option to purchase clause between the authorized new motor vehicle franchised dealer and the school or college and a photo copy of the front of the dealer's vehicle manufacturer's statement of origin, and shall make application for and be granted a nonnegotiable certificate of ownership and be issued the appropriate license plates. Registration plates are not necessary on a driver training vehicle when the motor vehicle is plainly marked as a driver training vehicle while being used for such purpose and such vehicle can also be used in conjunction with the activities of the educational institution.

4. As used in this section, the term "political subdivision" is intended to include any township, road district, sewer district, school district, municipality, town or village, **sheltered workshop, as defined in section 178.900, RSMo**, and any interstate compact agency which operates a public mass transportation system.

302.173. DRIVER'S EXAMINATION REQUIRED, WHEN — EXCEPTIONS — PROCEDURE.

— 1. Any applicant for a license, who does not possess a valid license issued pursuant to the laws of this state **or any other state** shall be examined as herein provided. Any person who has failed to renew such person's license on or before the date of its expiration or within six months thereafter must take the complete examination. Any active member of the armed forces, their adult dependents or any active member of the peace corps may apply for a renewal license without examination of any kind, unless otherwise required by sections 302.700 to 302.780, provided the renewal application shows that the previous license had not been suspended or revoked. Any person honorably discharged from the armed forces of the United States who held a valid license prior to being inducted may apply for a renewal license within sixty days after such person's honorable discharge without submitting to any examination of such person's ability to safely operate a motor vehicle over the highways of this state unless otherwise required by sections 302.700 to 302.780, other than the vision test provided in section 302.175, unless the facts set out in the renewal application or record of convictions on the expiring license, or the records of the director show that there is good cause to authorize the director to require the applicant to submit to the complete examination. No applicant for a renewal license shall be required to submit to any examination of his or her ability to safely operate a motor vehicle over the highways of this state unless otherwise required by sections 302.700 to 302.780 or regulations promulgated thereunder, other than a test of the applicant's ability to understand highway signs regulating, warning or directing traffic and the vision test provided in section 302.175, unless the facts set out in the renewal application or record of convictions on the expiring license, or the records of the director show that there is good cause to authorize the

director to require the applicant to submit to the complete examination. The examination shall be made available in each county. Reasonable notice of the time and place of the examination shall be given the applicant by the person or officer designated to conduct it. The complete examination shall include a test of the applicant's natural or corrected vision as prescribed in section 302.175, the applicant's ability to understand highway signs regulating, warning or directing traffic, the applicant's practical knowledge of the traffic laws of this state, and an actual demonstration of ability to exercise due care in the operation of a motor vehicle of the classification for which the license is sought. When an applicant for a license has a valid license from a state which has requirements for issuance of a license comparable to the Missouri requirements, the director may waive the requirement of actual demonstration of ability to exercise due care in the operation of a motor vehicle. If the director has reasonable grounds to believe that an applicant is suffering from some known physical or mental ailment which ordinarily would interfere with the applicant's fitness to operate a motor vehicle safely upon the highways, the director may require that the examination include a physical or mental examination by a licensed physician of the applicant's choice, at the applicant's expense, to determine the fact. The director shall prescribe regulations to ensure uniformity in the examinations and in the grading thereof and shall prescribe and furnish all forms to the members of the highway patrol and to other persons authorized to conduct examinations as may be necessary to enable the officer or person to properly conduct the examination. The records of the examination shall be forwarded to the director who shall not issue any license hereunder if in the director's opinion the applicant is not qualified to operate a motor vehicle safely upon the highways of this state.

2. The director of revenue shall delegate the power to conduct the examinations required for a license or permit to any member of the highway patrol or any person employed by the highway patrol. The powers delegated to any examiner may be revoked at any time by the director of revenue upon notice.

3. Notwithstanding the requirements of subsections 1 and 2 of this section, the successful completion of a motorcycle rider training course approved pursuant to sections 302.133 to 302.138 shall constitute an actual demonstration of the person's ability to exercise due care in the operation of a motorcycle or motortricycle, and no further driving test shall be required to obtain a motorcycle or motortricycle license or endorsement.

302.286. THEFT OF MOTOR FUEL PUNISHABLE BY SUSPENSION OF DRIVER'S LICENSE — REINSTATEMENT FEE REQUIRED. — 1. No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment or authorized charge for motor fuel dispensed has been made. A person found guilty or pleading guilty to stealing pursuant to section 570.030, RSMo, for the theft of motor fuel as described in this section shall have his or her driver's license suspended by the court, beginning on the date of the court's order of conviction.

2. The person shall submit all of his or her operator's and chauffeur's licenses to the court upon conviction and the court shall forward all such driver's licenses and the order of suspension of driving privileges to the department of revenue for administration of such order.

3. Suspension of a driver's license pursuant to this section shall be made as follows:

(1) For the first offense, suspension shall be for sixty days, provided that persons may apply for hardship licenses pursuant to section 302.309 at any time following the first thirty days of such suspension;

(2) For the second offense, suspension shall be for ninety days, provided that persons may apply for hardship licenses pursuant to section 302.309 at any time following the first sixty days of such suspension; and

(3) For the third or any subsequent offense, suspension shall be for one hundred eighty days, provided that persons may apply for hardship licenses pursuant to section 302.309 at any time following the first ninety days of such suspension.

4. At the expiration of the suspension period, and upon payment of a reinstatement fee of twenty-five dollars, the director shall terminate the suspension and shall return the person's driver's license. The reinstatement fee shall be in addition to any other fees required by law, and shall be deposited in the state treasury to the credit of the state highway department fund, pursuant to section 302.228.

304.015. DRIVE ON RIGHT OF HIGHWAY — TRAFFIC LANES — SIGNS — VIOLATIONS, PENALTIES. — 1. All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of municipalities where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance.

2. Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;

(2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of sections 304.014 to 304.026 or traffic regulations thereunder or of municipalities;

(3) When the right half of a roadway is closed to traffic while under construction or repair;

(4) Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.

3. It is unlawful to drive any vehicle upon any highway or road which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except [in a crossover or] **at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.**

4. The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the Missouri highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.

5. Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;

(3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in sections 304.014 to 304.026;

(4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow moving traffic to use a designated lane

or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;

(5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

6. All vehicles in motion upon a highway having two or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

7. Violation of this section shall be deemed an infraction unless such violation causes an immediate threat of an accident, in which case such violation shall be deemed a class C misdemeanor, or unless an accident results from such violation, in which case such violation shall be deemed a class A misdemeanor.

304.035. STOP REQUIRED AT RAILROAD GRADE CROSSING, WHEN — PENALTY. — 1. When any person driving a vehicle approaches a railroad grade crossing, the driver of the vehicle shall operate the vehicle in a manner so he will be able to stop, and he shall stop the vehicle not less than fifteen feet and not more than fifty feet from the nearest rail of the railroad track and shall not proceed until he can safely do so if:

(1) A clearly visible electric or mechanical signal device warns of the approach of a railroad train; or

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal or warning of the approach or passage of a railroad train; or

(3) An approaching railroad train is visible and is in hazardous proximity to such crossing; or

(4) Any other traffic sign, device or any other act, rule, regulation or statute requires a vehicle to stop at a railroad grade crossing.

2. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing when a train is approaching while such gate or barrier is closed or is being opened or closed.

3. **No person shall drive a vehicle through a railroad crossing when there is not sufficient space to drive completely through the crossing.**

4. **No person shall drive a vehicle through a railroad crossing unless such vehicle has sufficient undercarriage clearance necessary to prevent the undercarriage of the vehicle from contacting the railroad crossing.**

5. Any person violating the provisions of this section is guilty of a class C misdemeanor.

304.180. REGULATIONS AS TO WEIGHT — AXLE LOAD, TANDEM AXLE DEFINED. — 1. No vehicle or combination of vehicles shall be moved or operated on any [primary or interstate] highway in this state [plus a distance not to exceed ten miles from such highways,] having a greater weight than twenty thousand pounds on one axle, no combination of vehicles operated by transporters of general freight over regular routes as defined in section 390.020, RSMo, shall be moved or operated on any highway of this state having a greater weight than the vehicle manufacturer's rating on a steering axle with the maximum weight not to exceed twelve thousand pounds on a steering axle, and no vehicle shall be moved or operated on any [primary or interstate highways] **state highway** of this state having a greater weight than thirty-four thousand pounds on any tandem axle; the term "tandem axle" shall mean a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart [and further provided, however, that when any vehicle or combination of vehicles with six axles which includes a tandem axle group as above defined and a group of three axles which are fully equalized, automatically or mechanically, and the distance between the center of the extremes of which does not exceed one hundred ten

inches, the chief engineer of the Missouri state transportation department shall issue a special permit for the movement thereof, as provided in section 304.200, for twenty thousand pounds for each axle of the tandem axle group and for sixteen thousand pounds for each axle of the group of three fully equalized axles which are equalized, automatically or mechanically, when said vehicle or combination of vehicles is used to transport excavation or construction machinery or equipment, road-building machinery or farm implements over routes in the primary system and other routes that are not a part of the interstate system of highways; provided, further, that the chief engineer of the Missouri state transportation department may issue permits on the interstate system].

2. An "axle load" is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

3. Subject to the limit upon the weight imposed upon a [primary or interstate] highway of **this state** through any one axle or on any tandem axle, the total gross weight with load imposed [upon a primary or interstate highway, plus a distance not to exceed ten miles from such highways,] by any group of two or more consecutive axles of any vehicle or combination of vehicles shall not exceed the maximum load in pounds as set forth in the following table:

Distance in feet between the extremes of any group of two or more consecutive axles, measured to the nearest foot, except where indicated otherwise					
		Maximum load in pounds			
feet	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	34,000	34,000			
More than 8	38,000	42,000			
9	39,000	42,500			
10	40,000	43,500			
11	40,000	44,000			
12	40,000	45,000	50,000		
13	40,000	45,500	50,500		
14	40,000	46,500	51,500		
15	40,000	47,000	52,000		
16	40,000	48,000	52,500	58,000	
17	40,000	48,500	53,500	58,500	
18	40,000	49,500	54,000	59,000	
19	40,000	50,000	54,500	60,000	
20	40,000	51,000	55,500	60,500	66,000
21	40,000	51,500	56,000	61,000	66,500
22	40,000	52,500	56,500	61,500	67,000
23	40,000	53,000	57,500	62,500	68,000
24	40,000	54,000	58,000	63,000	68,500
25	40,000	54,500	58,500	63,500	69,000
26	40,000	55,500	59,500	64,000	69,500
27	40,000	56,000	60,000	65,000	70,000
28	40,000	57,000	60,500	65,500	71,000

29	40,000	57,500	61,500	66,000	71,500
30	40,000	58,500	62,000	66,500	72,000
31	40,000	59,000	62,500	67,500	72,500
32	40,000	60,000	63,500	68,000	73,000
33	40,000	60,000	64,000	68,500	74,000
34	40,000	60,000	64,500	69,000	74,500
35	40,000	60,000	65,500	70,000	75,000
36		60,000	66,000	70,500	75,500
37		60,000	66,500	71,000	76,000
38		60,000	67,500	72,000	77,000
39		60,000	68,000	72,500	77,500
40		60,000	68,500	73,000	78,000
41		60,000	69,500	73,500	78,500
42		60,000	70,000	74,000	79,000
43		60,000	70,500	75,000	80,000
44		60,000	71,500	75,500	80,000
45		60,000	72,000	76,000	80,000
46		60,000	72,500	76,500	80,000
47		60,000	73,500	77,500	80,000
48		60,000	74,000	78,000	80,000
49		60,000	74,500	78,500	80,000
50		60,000	75,500	79,000	80,000
51		60,000	76,000	80,000	80,000
52		60,000	76,500	80,000	80,000
53		60,000	77,500	80,000	80,000
54		60,000	78,000	80,000	80,000
55		60,000	78,500	80,000	80,000
56		60,000	79,500	80,000	80,000
57		60,000	80,000	80,000	80,000

Notwithstanding the above table, two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

4. [Subject to the limit upon the weight imposed upon a supplementary highway through any one axle which shall not have a weight greater than eighteen thousand pounds or on any tandem axle which shall not have a weight greater than thirty-two thousand pounds, the total gross weight with load imposed upon the supplementary highway by any vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of a single motor vehicle or by the first axle of a motor vehicle and the last axle of the last vehicle in any combination of vehicles measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between the extreme axles	Maximum load in pounds
4	32,000
5	32,000
6	32,000
7	32,000
8	33,200
9	34,400
10	35,600
11	36,800
12	38,000

13	39,200
14	40,400
15	41,600
16	42,800
17	44,000
18	45,200
19	46,400
20	47,600
21	48,800
22	50,000
23	51,000
24	52,000
25	53,000
26	54,000
27	55,000
28	56,000
29	57,000
30	58,000
31	59,000
32	60,000
33	61,100
34	62,200
35	63,500
36	64,600
37	65,900
38	67,100
39	68,300
40	69,700
41	70,800
42	72,000
43 or over	73,280

5. Provided, however, subject to the limit upon the weight imposed through any one axle, through any tandem axle, as provided in subsection 4 of this section, the total gross weight with load imposed upon any bridges generally considered by the state highways and transportation commission to be on the supplementary system or upon any bridges which are under the jurisdiction of and maintained by counties, townships or cities shall not exceed the gross weight given for the respective distance between the first and last axle of the total group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between the extreme axles	Maximum load In pounds
4	32,000
5	32,000
6	32,000
7	32,000
8	32,610
9	33,580
10	34,550
11	35,510
12	36,470
13	37,420
14	38,360

15	39,300
16	40,230
17	41,160
18	42,080
19	42,990
20	43,900
21	44,800
22	45,700
23	46,590
24	47,470
25	48,350
26	49,220
27	50,090
28	50,950
29	51,800
30	52,650
31	53,490
32	54,330
33	55,160
34	55,980
35	56,800
36	57,610
37	58,420
38	59,220
39	60,010
40	60,800
41	61,580
42	62,360
43	63,130
44	63,890
45 or over	64,650

The state highways and transportation commission, with respect to bridges on the supplementary system, or the person in charge of supervision or maintenance of the bridges on the county, township or city roads and streets may determine and by official order declare that certain designated bridges do not appear susceptible to unreasonable and unusual damage by reason of such higher weight limits and may legally be subjected to the higher limits in this section.]

Whenever the state highways and transportation commission finds that any state highway bridge in the state is in such a condition that use of such bridge by vehicles of the weights specified in subsection 3 of this section will endanger the bridge, or the users of the bridge, the commission may establish maximum weight limits and speed limits for vehicles using such bridge. The governing body of any city or county may grant authority by act or ordinance to the state highways and transportation commission to enact the limitations established in this section on those roadways within the purview of such city or county. Notice of the weight limits and speed limits established by the commission shall be given by posting signs at a conspicuous place at each end of any such bridge.

[6.] 5. Nothing in this section shall be construed as permitting lawful axle loads, tandem axle loads or gross loads in excess of those permitted under the provisions of Section 127 of Title 23 of the United States Code.

[7. Additional routes may be designated by the state highways and transportation commission for movement or operation by vehicles or combinations of vehicles having the weights described in subsections 1 and 3 of this section.

8.] **6.** Notwithstanding the weight limitations contained in this section, any vehicle or combination of vehicles operating on highways other than the interstate highway system may exceed single axle, tandem axle and gross weight limitations in an amount not to exceed two thousand pounds. However, total gross weight shall not exceed eighty thousand pounds.

[9.] **7.** Notwithstanding any provision of this section to the contrary, the department of transportation shall issue a single-use special permit, or upon request of the owner of the truck or equipment, shall issue an annual permit, for the transporting of any concrete pump truck or well-drillers' equipment. The department of transportation shall set fees for the issuance of permits pursuant to this subsection. Notwithstanding the provisions of section 301.133, RSMo, concrete pump trucks or well-drillers' equipment may be operated on state maintained roads and highways at any time on any day.

304.580. HIGHWAY CONSTRUCTION OR WORK ZONES DEFINED, MOTOR VEHICLE MOVING VIOLATIONS, PENALTY. — 1. As used in this section, the term "construction zone" or "work zone" means any area upon or around any highway as defined in section 302.010, RSMo, which is visibly marked by the department of transportation or a contractor performing work for the department of transportation as an area where construction, maintenance, or other work is temporarily occurring. **The term "work zone" or "construction zone" also includes the lanes of highway leading up to the area upon which an activity described in this subsection is being performed, beginning at the point where appropriate signs directing motor vehicles to merge from one lane into another lane are posted.**

2. Upon a conviction or a plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone.

3. **Upon a conviction or plea of guilty by any person for a speeding violation pursuant to either section 304.009 or 304.010, or a passing violation pursuant to subsection 6 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law, if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any person in such zone who was there to perform duties related to the reason for which the area was designated a construction zone or work zone. However, no person assessed an additional fine pursuant to this subsection shall also be assessed an additional fine pursuant to subsection 2 of this section, and no person shall be assessed an additional fine pursuant to this subsection if no signs have been posted pursuant to subsection 4 of this section.**

4. The penalty authorized by subsection 3 of this section shall only be assessed by the court if the department of transportation or contractor performing work for the department of transportation has erected signs upon or around a construction or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: \$250 fine for speeding or passing in this work zone".

5. During any day in which no person is present in a construction zone or work zone established pursuant to subsection 3 of this section to perform duties related to the purpose of the zone, the sign warning of additional penalties shall not be visible to motorists. During any period of two hours or more in which no person is present in such zone on a day in which persons have been or will be present to perform duties related to the reason for which the area was designated as a construction zone or work zone, the sign warning of additional penalties shall not be visible to motorists. The department of transportation or contractor performing work for the department of transportation shall be responsible for compliance with provisions of this subsection. Nothing in this subsection shall prohibit warning or traffic control signs necessary for public safety in the construction or work zone being visible to motorists at all times.

6. The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone. This subsection applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane by an appropriate sign erected by the department of transportation or a contractor performing work for the department of transportation. Violation of this subsection is a class C misdemeanor.

7. This section shall not be construed to enhance the assessment of court costs or the assessment of points pursuant to section 302.302, RSMo.

307.173. SPECIFICATIONS FOR VISION-REDUCING MATERIAL APPLIED TO WINDSHIELD OR WINDOWS — VIOLATIONS, PENALTY — RULES, PROCEDURE — EXCEPTION. — 1. Except as provided in subsections 2 and 6 of this section, no person shall operate any motor vehicle registered in this state on any public highway or street of this state with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, sidewings, or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

2. [A permit to] **Any person may** operate a motor vehicle with [a front sidewing vent or window] **side and rear windows** that [has] **have** a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent or more plus or minus three percent and a luminous reflectance of thirty-five percent or less plus or minus three percent [may be issued by the department of public safety to a person having a physical disorder requiring the use of such vision-reducing material. If, according to the permittee's physician, the physical disorder requires the use of a sun screening device which permits less light transmission and luminous reflectance than allowed under the requirements of this subsection, the limits of this subsection may be altered for that permittee in accordance with the physician's prescription. The director of the department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by immediate family members who are husband, wife and sons or daughters who reside in the household].

3. A motor vehicle in violation of this section shall not be approved during any motor vehicle safety inspection required pursuant to sections 307.350 to 307.390.

4. [No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

5. Any person who violates the provisions of this section is guilty of a class C misdemeanor.

6. Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

307.375. INSPECTION OF SCHOOL BUSES — ITEMS COVERED — VIOLATIONS, WHEN CORRECTED, NOTICE TO PATROL — SPOT CHECKS AUTHORIZED. — 1. The owner of every bus used to transport children to or from school in addition to any other inspection required by law shall submit the vehicle to an official inspection station, and obtain a certificate of inspection, sticker, seal or other device annually, but the inspection of the vehicle shall not be made more than sixty days prior to operating the vehicle during the school year. The inspection shall, in addition to the inspection of the mechanism and equipment required for all motor vehicles under the provisions of sections 307.350 to 307.390, include an inspection to ascertain that the following items are correctly fitted, adjusted, and in good working condition:

- (1) All mirrors, including crossview, inside, and outside;
- (2) The front and rear warning flashers;
- (3) The stop signal arm;
- (4) The crossing control arm on public school buses required to have them pursuant to section 304.050, RSMo;
- (5) The rear bumper to determine that it is flush with the bus so that hitching of rides cannot occur;
- (6) The exhaust tailpipe [to determine that it does not protrude from the bus] **shall be flush with or may extend not more than two inches beyond the perimeter of the body or bumper;**
- (7) The emergency doors and exits to determine them to be unlocked and easily opened as required;
- (8) The lettering and signing on the front, side[,] and rear of the bus;
- (9) The service door;
- (10) The step treads;
- (11) The aisle mats or aisle runners;
- (12) The emergency equipment which shall include as a minimum, a first aid kit, flares or fuses, and a fire extinguisher;
- (13) The seats, including a determination that they are securely fastened to the floor;
- (14) The emergency door buzzer;
- (15) All hand hold grips;
- (16) The interior glazing of the bus.

2. In addition to the inspection required by subsection 1 **of this section**, the Missouri state highway patrol shall conduct an inspection after February first of each school year of all vehicles required to be marked as school buses under section 304.050, RSMo. This inspection shall be conducted by the Missouri highway patrol in cooperation with the department of elementary and secondary education and shall include, as a minimum, items in subsection 1 **of this section** and the following:

- (1) The driver seat belts;
- (2) The heating and defrosting systems;
- (3) The reflectors;
- (4) The bus steps;
- (5) The aisles.

3. If, upon inspection, conditions which violate the standards in subsection 2 **of this section** are found, the owner or operator shall have them corrected in ten days and notify the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent. If the defects or unsafe conditions found constitute an immediate danger, the bus shall not be used until corrections are made and the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent are notified.

4. The Missouri highway patrol may inspect any school bus at any time and if such inspection reveals a deficiency affecting the safe operation of the bus, the provisions of subsection 3 **of this section** shall be applicable.

414.407. EPACT CREDIT BANKING AND SELLING PROGRAM ESTABLISHED — DEFINITIONS — BIODIESEL FUEL REVOLVING FUND CREATED — RULEMAKING AUTHORITY — STUDY ON THE USE OF ALTERNATIVE FUELS IN MOTOR VEHICLES, CONTENTS. — 1. As used in this section, the following terms mean:

- (1) "B-20", a blend of twenty percent by volume biodiesel fuel and eighty percent by volume petroleum-based diesel fuel;
- (2) "Biodiesel", fuel as defined in ASTM Standard PS121;
- (3) "EPAct", the federal Energy Policy Act, 42 U.S.C. 13201, et seq.;
- (4) "EPAct credit", a credit issued pursuant to EPAct;
- (5) "Fund", the Biodiesel Fuel Revolving Fund;
- (6) "Incremental cost", the difference in cost between biodiesel fuel and conventional petroleum-based diesel fuel at the time the biodiesel fuel is purchased.

2. The department, in cooperation with the department of agriculture, shall establish and administer an EPAct credit banking and selling program to allow state agencies to use moneys generated by the sale of EPAct credits to purchase biodiesel fuel for use in state vehicles. Each state agency shall provide the department with all vehicle fleet information necessary to determine the number of EPAct credits generated by the agency. The department may sell credits in any manner pursuant to the provisions of EPAct.

3. There is hereby created in the state treasury the "Biodiesel Fuel Revolving Fund", into which shall be deposited moneys received from the sale of EPAct credits banked by state agencies on the effective date of this section and in future reporting years, any moneys appropriated to the fund by the General Assembly, and any other moneys obtained or accepted by the department for deposit into the fund. The fund shall be managed to maximize benefits to the state in the purchase of biodiesel fuel and, when possible, to accrue those benefits to state agencies in proportion to the number of EPAct credits generated by each respective agency.

4. Moneys deposited into the fund shall be used to pay for the incremental cost of biodiesel fuel with a minimum biodiesel concentration of B-20 for use in state vehicles and for administration of the fund. Not later than January thirty-first of each year, the department shall submit an annual report to the General Assembly on the expenditures from the fund during the preceding fiscal year.

5. Notwithstanding the provisions of section 33.0080, RSMo, no portion of the fund shall be transferred to the general revenue fund, and any appropriation made to the fund shall not lapse. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Interest and moneys earned on such investments shall be credited to the fund.

6. The department shall promulgate such rules as are necessary to implement this section. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

7. The department shall conduct a study of the use of alternative fuels in motor vehicles in the state and shall report its findings and recommendations to the General Assembly no later than January 1, 2002. Such study shall include:

- (1) An analysis of the current use of alternative fuels in public and private vehicle fleets in the state;
- (2) An assessment of methods that the state may use to increase use of alternative fuels in vehicle fleets, including the sale of credits generated pursuant to the federal Energy Policy Act, 42 U.S.C. 13201, et seq., to pay for the difference in cost between alternative fuels and conventional fuels;
- (3) An assessment of the benefits or harm that increased use of alternative fuels may make to the state's economy and environment;
- (4) Any other information that the department deems relevant.

431.181. PAYMENTS FOR THE TRANSPORTATION OF PROPERTY TO BE MADE WITHIN THIRTY DAYS AFTER DELIVERY, WHEN — WARRANTY REPAIR WORK, REIMBURSEMENT, RATES. — 1. Any person who enters into a contract with a transportation of property provider or an agent acting for a transportation of property provider for the transportation of property shall, after the property has been delivered in good condition by the transportation provider to the agreed upon destination within the agreed upon time limitation, make all scheduled payments pursuant to the terms of the contract or within thirty days if no time is specified in the contract.

2. Any person who has not been paid in accordance with subsection 1 of this section may bring an action in a court of competent jurisdiction against any person who has failed to pay.

3. Retailers who sell and service industrial, maintenance and construction power equipment or outdoor power equipment as defined in section 407.850, RSMo, and who do warranty repair work for a consumer under provisions of a manufacturer's express warranty, shall be reimbursed by the manufacturer for the warranty work at an hourly labor rate that is the same or greater than the hourly labor rate the retailer currently charges consumers for nonwarranty repair work.

SECTION 1. RETRO REFLECTIVE SHEETING FOR SCHOOL WARNING SIGNS, GRANTS ISSUED BY DEPARTMENT TO LOCAL GOVERNMENTS, PROCEDURE — RULEMAKING AUTHORITY. — 1. The director of the department of transportation shall have the authority to award grants to local governments for the purpose of obtaining retro reflective sheeting for school warning signs which shall:

- (1)** Be fluorescent yellow-green in color;
- (2)** Comply with Section 7B.07 of the Manual on Uniform Traffic Control Devices of the United States Department of Transportation; and
- (3)** Qualify as Type IX retro reflective sheeting as defined by the American Society for the Testing of Materials (ASTM).

2. The grants awarded pursuant to this section shall be paid from the general revenue fund, subject to appropriation, and may not exceed a total amount of two hundred thousand dollars.

3. To qualify for a grant pursuant to this section, local government entities shall contribute local funds, labor or materials in an amount not less than twenty-five percent of the amount of such community's grant award.

4. In awarding the grants, the director shall consider the community's need for assistance based on safety concerns related to traffic control near a school. The director shall also consider awarding grants to public governmental bodies in different regions throughout the state.

5. The department shall promulgate such rules as are necessary to implement this section. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 356, RSMo.

Approved July 10, 2001

SB 252 [SB 252]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Missouri National Guard and the City of Joplin to exchange two parcels of property.

AN ACT to authorize the conveyance of certain properties between the Missouri national guard and the city of Joplin.

SECTION

1. Conveyance of property by Missouri national guard to city of Joplin.
2. Consideration for property conveyed to city of Joplin — quit claim property to Missouri national guard.
3. Attorney general to approve form of conveyance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY MISSOURI NATIONAL GUARD TO CITY OF JOPLIN. — The Missouri national guard is hereby authorized to remise, release and forever quit claim the following described property to the city of Joplin, Missouri. The property to be conveyed is more particularly described as follows:

Part of the Northeast Quarter of Section 21, Township 27, Range 33, City of Joplin, Newton County, Missouri, described as: Commencing at the Northwest corner of the Northeast Quarter of said Section 21; thence South 01 deg. 42 min. 35 sec. West along the West line of said Northeast Quarter 50.01 feet; thence South 89 deg. 36 min. 28 sec. East and parallel with the North line of said Northeast Quarter 1404.01 feet to the True Point of Beginning; thence continuing South 89 deg. 36 min. 28 sec. East 100.00 feet; thence South 00 deg. 41 min. 30 sec. West 500.00 feet; thence North 89 deg. 36 min. 28 sec. West 100.00 feet; thence North 00 deg. 41 min. 30 sec. East 500.00 feet to the True Point of Beginning, containing 1.15 acres, more or less, subject to any easements or rights of way of record.

SECTION 2. CONSIDERATION FOR PROPERTY CONVEYED TO CITY OF JOPLIN — QUIT CLAIM PROPERTY TO MISSOURI NATIONAL GUARD. — In consideration for the conveyance in section 1 of this act, the city of Joplin is hereby authorized to remise, release and forever quit claim the following described property to the Missouri national guard. The property to be conveyed is more particularly described as follows:

Part of the Northeast Quarter of Section 21, Township 27, Range 33, City of Joplin, Newton County, Missouri, described as: Commencing at the Northwest corner of the Northeast Quarter of said Section 21; thence South 01 deg. 42 min. 35 sec. West along the West line of said Northeast Quarter 50.01 feet; thence South 89 deg. 36 min. 28 sec. East and parallel with the North line of said Northeast Quarter 534.01 feet to the True Point of Beginning; thence continuing South 89 deg. 36 min. 28 sec. East 100.00 feet; thence South 00 deg. 41 min. 30 sec. West 500.00 feet; thence North 89 deg. 36 min. 28 sec. West 100.00 feet; thence North 00 deg. 41 min. 30 sec. East 500.00 feet to the True Point of Beginning, containing 1.15 acres, more or less, subject to any easements or rights of way of record.

SECTION 3. ATTORNEY GENERAL TO APPROVE FORM OF CONVEYANCE. — The attorney general shall approve as to form the instruments of conveyance.

Approved July 10, 2001

SB 256 [SB 256]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes forty million dollars in bonds for various water and sewer programs; permits political subdivisions to require owners to connect to a sewer system.

AN ACT to amend chapter 644, RSMo, by adding thereto four new sections relating to political subdivisions, with an emergency clause.

SECTION

- A. Enacting clause.
- 644.027. Sewer districts and systems made available to political subdivisions, no restriction allowed on connecting to system.
 - 1. Commissioners may borrow additional \$10,000,000 for improvements.
 - 2. Commissioners may borrow additional \$10,000,000 for rural water and sewer grants and loans.
 - 3. Commissioners may borrow additional \$20,000,000 for grants and loans to storm water control plans.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 644, RSMo, is amended by adding thereto four new sections, to be known as sections 644.027, 1, 2 and 3, to read as follows:

644.027. SEWER DISTRICTS AND SYSTEMS MADE AVAILABLE TO POLITICAL SUBDIVISIONS, NO RESTRICTION ALLOWED ON CONNECTING TO SYSTEM. — **Nothing in sections 644.006 through 644.150, RSMo, shall be deemed to restrict, inhibit or otherwise deny the power of any city, town or village, whether organized under the general law or by constitutional or special charter, any sewer district organized under chapter 204, RSMo, or chapter 249, RSMo, any public water supply district organized under chapter 247, RSMo, or any other municipality, political subdivision or district of the state which owns or operates a sewer system that provides for the collection and treatment of sewage, to require the owners of all houses, buildings or other facilities within a municipality, political subdivision or district to connect to the sewer system of the municipality, political subdivision or district when such sewer system is available.**

SECTION 1. COMMISSIONERS MAY BORROW ADDITIONAL \$10,000,000 FOR IMPROVEMENTS. — In addition to those sums authorized prior to August 28, 2002, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

SECTION 2. COMMISSIONERS MAY BORROW ADDITIONAL \$10,000,000 FOR RURAL WATER AND SEWER GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 2002, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

SECTION 3. COMMISSIONERS MAY BORROW ADDITIONAL \$20,000,000 FOR GRANTS AND LOANS TO STORM WATER CONTROL PLANS. — In addition to those sums authorized prior to August 28, 2002, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

SECTION B. EMERGENCY CLAUSE. — Because of the need to provide adequate sewer systems within local political subdivisions, section 644.027 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 644.027 of this act shall be in full force and effect upon its passage and approval.

Approved April 17, 2001

SB 266 [CCS HS HCS SCS SB 266]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a program for information on the inflammatory connective tissue disease, lupus, within the Department of Health.

AN ACT to repeal sections 198.531, 199.170, 199.180, 199.200, 701.322, 701.326 and 701.328, RSMo 2000, and to enact in lieu thereof twenty-two new sections relating to the department of health.

SECTION

- A. Enacting clause.
 - 191.714. Blood-borne pathogen standard required for occupational exposure of public employees to blood and other infectious materials — definitions — requirements of needleless system and sharps — violations, penalty.
 - 191.938. Automated external defibrillator advisory committee established, duties, reports, membership, bylaws — termination date.
 - 191.975. Adoption awareness, department duties — rulemaking authority.
 - 192.729. Systemic lupus erythematosus program established — expansion of existing programs permitted — rulemaking authority.
 - 196.367. Manufacturer's exemption, conditions.
 - 198.531. Aging-in-place pilot program established — program requirements and monitoring — rulemaking authority.
 - 199.170. Definitions.
 - 199.180. Local health agency may institute proceedings for commitment — emergency temporary commitment permitted, when.
 - 199.200. Procedure in circuit court — duties of local prosecuting officers — costs — emergency temporary commitment, procedures.
 - 376.1199. Coverage for certain obstetrical/gynecological services — exclusion of contraceptive coverage permitted, when — rulemaking authority.
 - 376.1290. Coverage for lead testing.
 - 701.322. Laboratory services for disease, lead content — fee.
 - 701.326. Lead poisoning information reporting system — level of poisoning to be reported — health care professional and department director to provide information.
 - 701.328. Identity of persons participating to be protected — consent for release form, when requested — use and publishing of reports.
 - 701.340. Childhood lead testing program established — test to be used — parental objection.
 - 701.342. High risk areas identified — assessment and testing requirements — laboratory reporting — additional testing required, when.
 - 701.343. Duties of the department.
 - 701.344. Evidence of lead poisoning testing required for child-care facilities located in high risk areas — no denial of access to education permitted.
 - 701.345. Childhood lead testing fund created.
 - 701.346. Rulemaking authority.
 - 701.348. Political subdivisions may provide more stringent requirements.
 - 701.349. Severability clause.
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Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 198.531, 199.170, 199.180, 199.200, 701.322, 701.326 and 701.328, RSMo 2000, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 191.714, 191.938, 191.975, 192.729, 196.367, 198.531, 199.170, 199.180, 199.200, 376.1199, 376.1290, 701.322, 701.326, 701.328, 701.340, 701.342, 701.343, 701.344, 701.345, 701.346, 701.348 and 701.349, to read as follows:

191.714. BLOOD-BORNE PATHOGEN STANDARD REQUIRED FOR OCCUPATIONAL EXPOSURE OF PUBLIC EMPLOYEES TO BLOOD AND OTHER INFECTIOUS MATERIALS — DEFINITIONS — REQUIREMENTS OF NEEDLELESS SYSTEM AND SHARPS — VIOLATIONS, PENALTY. — 1. As used in this section, the following terms shall mean:

(1) "Blood-borne pathogens", any pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV);

(2) "Employer", any employer having public employees with occupational exposure to blood or other material potentially containing blood-borne pathogens;

(3) "Frontline health care worker", a nonmanagerial employee responsible for direct patient care with potential occupational exposure to sharps-related injuries;

(4) "Public employee", an employee of the state or local governmental unit, or agency thereof, employed in a health care facility, home health care organization or other facility providing health care related services.

2. The department of health shall, no later than six months from the effective date of this section, adopt a blood-borne pathogen standard governing occupational exposure of public employees to blood and other potentially infectious materials that meets the standard in 29 CFR 1910.1030 and shall include a requirement that the most effective available needleless systems and sharps with engineered sharps injury protection be included as engineering and work practice controls. However, such engineering controls shall not be required if:

(1) None are available in the marketplace; or

(2) An evaluation committee, described in subsection 5 of this section, determines by means of objective product evaluation criteria that use of such devices will jeopardize patient or employee safety with regard to a specific medical procedure.

3. The use of a drug or biologic that is prepackaged with an administration system or used in a prefilled syringe and is approved for commercial distribution or investigational use by the federal Food and Drug Administration shall be exempt from the provisions of this section until June 1, 2004.

4. The sharps injury log maintained pursuant to this section shall include:

(1) The date and time of the exposure incident;

(2) The type and brand of sharp involved in the exposure incident;

(3) A description of the exposure incident to include:

(a) The job classification of the exposed employee;

(b) The department or work area where the exposure incident occurred;

(c) The number of hours worked at the time of the exposure incident;

(d) The procedure that the exposed employee was performing at the time of the incident;

(e) How the incident occurred;

(f) The body part involved in the exposure incident; and

(g) If the sharp had engineered sharps injury protection, whether the protective mechanism was activated, and whether the injury occurred before the protective mechanism was activated, during activation of the mechanism or after activation of the mechanism.

5. An evaluation committee established pursuant to this section shall consist of at least five members but no more than ten members. At least half of the members of the committee shall be frontline health care workers at such facility from a variety of occupational classifications and departments, including but not limited to nurses, nurse aides, technicians, phlebotomists and physicians, who shall be selected by the facility to advise the employer on the implementation of the requirements of this section. In facilities where there are one or more representatives certified by the state board of mediation to represent frontline healthcare workers at such facility, the facility shall consult with such representatives as to the composition and membership of the committee. All members of the committee shall be trained in the proper method of utilizing product evaluation criteria prior to the commencement of any product evaluation. Committee members shall serve two-year terms, with the initial terms beginning thirty days after the formation of such committee and the subsequent terms beginning every two years thereafter. Vacancies on the committee shall be filled for the remainder of the term by the facility in the same manner as was used to appoint the vacating member. Members may serve consecutive terms. Members shall not be given additional compensation for their duties on such committee.

6. Any reference in 29 CFR 1910.1030 to the assistant secretary shall, for purposes of this section, mean the director of the department of health.

7. Any person may report a suspected violation of this section or 29 CFR 1910.1030 to the department of health. If such report involves a private employer, the department shall notify the federal Occupational Safety and Health Administration of the alleged violation.

8. The department of health shall compile and maintain a list of needleless systems and sharps with engineered sharps injury protection which shall be available to assist employers in complying with the requirements of the blood-borne pathogen standard adopted pursuant to this section. The list may be developed from existing sources of information, including but not limited to the federal Food and Drug Administration, the federal Centers for Disease Control and Prevention, the National Institute of Occupational Safety and Health and the United States Department of Veterans Affairs.

9. By February first of each year, the department of health shall issue an annual report to the governor, state auditor, president pro tem of the senate, speaker of the house of representatives and the technical advisory committee on the quality of patient care and nursing practices on the use of needle safety technology as a means of reducing needlestick injuries. By February fifteenth of each year, such report shall be made available to the public on the department of health's Internet site.

10. Any employer who violates the provisions of this section shall be subject to a reduction in or loss of state funding as a result of such violations.

191.938. AUTOMATED EXTERNAL DEFIBRILLATOR ADVISORY COMMITTEE ESTABLISHED, DUTIES, REPORTS, MEMBERSHIP, BYLAWS — TERMINATION DATE. — 1. There is hereby established an "Automated External Defibrillator Advisory Committee" within the department of health, subject to appropriations.

2. The committee shall advise the department of health, the office of administration and the general assembly on the advisability of placing automated external defibrillators in public buildings, especially in public buildings owned by the state of Missouri or housing employees of the state of Missouri, with special consideration to state office buildings accessible to the public.

3. The committee shall issue an initial report no later than June 1, 2002, and a final report no later than December 31, 2002, to the department of health, the office of administration and the governor's office. The issues to be addressed in the report shall include, but need not be limited to:

(1) The advisability of placing automated external defibrillators in public buildings and the determination of the criteria as to which public buildings should have automated external defibrillators and how such automated external defibrillators' placement should be accomplished;

(2) Projections of the cost of the purchase, placement and maintenance of any recommended automated external defibrillator placement;

(3) Discussion of the need for, and cost of, training personnel in the use of automated external defibrillators and in cardiopulmonary resuscitation;

(4) The integration of automated external defibrillators with existing emergency service.

4. The committee shall be composed of the following members appointed by the director of the department of health:

(1) A representative of the department of health;

(2) A representative of the division of facilities management in the office of administration;

(3) A representative of the American Red Cross;

(4) A representative of the American Heart Association;

(5) A physician who has experience in the emergency care of patients.

5. The department of health member shall be the chair of the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

6. The department of health shall provide technical and administrative support services as required by the committee. The office of administration shall provide technical support to the committee in the form of information and research on the number, size, use and occupancy of buildings in which employees of the state of Missouri work.

7. Members of the committee shall receive no compensation for their services as members, but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

8. The committee shall adopt written bylaws to govern its activities.

9. The automated external defibrillator advisory committee shall terminate on June 1, 2003.

191.975. Adoption awareness, department duties — rulemaking authority. — 1. This section shall be known and may be cited as the "Adoption Awareness Law".

2. To raise public awareness and to educate the public, the department of social services, with the assistance of the department of health, shall be responsible for:

(1) Collecting and distributing resource materials to educate the public about foster care and adoption;

(2) Developing and distributing educational materials, including but not limited to videos, brochures and other media as part of a comprehensive public relations campaign about the positive option of adoption and foster care. The materials shall include, but not be limited to, information about:

(a) The benefits of adoption and foster care;

(b) Adoption and foster care procedures;

(c) Means of financing the cost of adoption and foster care, including but not limited to adoption subsidies, foster care payments and special needs adoption tax credits;

(d) Options for birth parents in choosing adoptive parents;

(e) Protection for and rights of birth parents and adoptive parents prior to and following the adoption;

(f) Location of adoption and foster care agencies;

(g) Information regarding various state health and social service programs for pregnant women and children, including but not limited to medical assistance programs and temporary assistance for needy families (TANF); and

(h) Referrals to appropriate counseling services, including but not be limited to counseling services for parents who are considering retaining custody of their children, placing their children for adoption, or becoming foster or adoptive parents; but excluding any referrals for abortion or to abortion facilities;

(3) Making such educational materials available through state and local public health clinics, public hospitals, family planning clinics, abortion facilities as defined in section 188.015, RSMo, maternity homes as defined in section 135.600, RSMo, child-placing agencies licensed pursuant to sections 210.481 to 210.536, RSMo, attorneys whose practice involves private adoptions, in vitro fertilization clinics and private physicians for distribution to their patients who request such educational materials. Such materials shall also be available to the public through the department of social services' Internet web site; and

(4) Establishing a toll-free telephone number for information on adoption and foster care.

3. The provisions of this section shall be subject to appropriations.

4. The department of social services shall promulgate rules for the implementation of this section in accordance with chapter 536, RSMo.

192.729. SYSTEMIC LUPUS ERYTHEMATOSIS PROGRAM ESTABLISHED — EXPANSION OF EXISTING PROGRAMS PERMITTED — RULEMAKING AUTHORITY. — 1. There is hereby established a state systemic lupus erythematosus program in the department of health. Subject to appropriations, the lupus program shall:

(1) Track and monitor the incidents of lupus occurring throughout the state;

(2) Identify medical professionals and providers that are knowledgeable or specialize in the treatment of lupus and related diseases or illnesses; and

(3) Promote lupus research and public awareness through collaborations with academic partners throughout the state and local boards, including the Missouri chapter of the lupus foundation.

2. The department may utilize or expand existing programs such as the office of women's health, the office of minority health and the state arthritis program established in sections 192.700 to 192.727 to meet the requirements of this section.

3. The department may promulgate rules to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

196.367. MANUFACTURER'S EXEMPTION, CONDITIONS. — Effective July 1, 2005, any manufacturer or distributor shall be exempted from the provisions of sections 196.365 to 196.445 if the manufacturer satisfies all applicable Food and Drug Administration regulations.

198.531. AGING-IN-PLACE PILOT PROGRAM ESTABLISHED — PROGRAM REQUIREMENTS AND MONITORING — RULEMAKING AUTHORITY. — 1. The division of aging, in collaboration with qualified Missouri schools and universities, shall establish an aging-in-place pilot program at a maximum of four selected sites throughout the state which will provide a continuum of care for elders who need long-term care. [One aging-in-place pilot program shall be at a thirty-five bed facility in a county of the first classification without a charter form of government with a population of at least ninety thousand but not more than one hundred thousand and a county of the first classification with a population of at least forty-two thousand but less than forty-five thousand and a county of the third classification without a township form

of government with a population of at least sixteen thousand nine hundred but less than seventeen thousand.] For purposes of this section, "qualified Missouri schools and universities" means any Missouri school or university which has a school of nursing, a graduate nursing program, or any other similar program or specialized expertise in the areas of aging, long-term care or health services for the elderly.

2. The pilot program shall:

(1) Deliver a full range of physical and mental health services to residents in the least restrictive environment of choice to reduce the necessity of relocating such residents to other locations as their health care needs change;

(2) Base licensure on services provided rather than on facility type; and

(3) Be established in selected urban, rural and regional sites throughout the state.

3. The directors of the division of aging and division of medical services shall apply for all federal waivers necessary to provide Medicaid reimbursement for health care services received through the aging-in-place pilot program.

4. The division of aging shall monitor the pilot program and report to the general assembly on the effectiveness of such program, including quality of care, resident satisfaction and cost-effectiveness to include the cost equivalent of unpaid or volunteer labor.

5. Developments authorized by this section shall be exempt from the provisions of sections 197.300 to 197.367, RSMo, and shall be licensed by the division of aging.

199.170. DEFINITIONS. — The following terms, as used in sections 199.170 to 199.270, mean:

(1) "Active tuberculosis", tuberculosis disease that is demonstrated to be contagious by clinical, bacteriological, or radiological evidence. Tuberculosis is considered active until cured;

(2) "Cure" or "treatment to cure", the completion of a recommended course of therapy as defined in subdivision (5) of this section and as determined by the attending physician;

(3) "Local board", any legally constituted local city or county board of health or health center board of trustees or the director of health of the city of Kansas City, **the director of the Springfield-Greene County health department, the director of health of St. Louis County** or the commissioner of health of the city of St. Louis, or in the absence of such board, the county commission or the county board of tuberculosis hospital commissioners of any county;

(4) "Potential transmitter", any person who has the diagnosis of pulmonary tuberculosis but has not begun a recommended course of therapy, or who has the diagnosis of pulmonary tuberculosis and has started a recommended course of therapy but has not completed the therapy. This status applies to any individual with tuberculosis, regardless of his or her current bacteriologic status;

(5) "Recommended course of therapy", a regimen of antituberculosis chemotherapy in accordance with medical standards of the American Thoracic Society and the Centers for Disease Control and Prevention.

199.180. LOCAL HEALTH AGENCY MAY INSTITUTE PROCEEDINGS FOR COMMITMENT — EMERGENCY TEMPORARY COMMITMENT PERMITTED, WHEN. — **1.** A person found to have tuberculosis shall follow the instructions of the local board, shall obtain the required treatment, and shall minimize the risk of infecting others with tuberculosis.

2. When a person with active tuberculosis, or a person who is a potential transmitter, violates the rules, regulations, instructions, or orders promulgated by the department of health or the local board, and is thereby conducting himself or herself so as to expose other persons to danger of infection, after having been directed by the local board to comply with such rules, regulations, instructions, or orders, the local board may institute proceedings by petition for commitment, returnable to the circuit court of the county in which such person resides, or if the person be a nonresident or has no fixed place of abode, then in the county in which the person

is found. Strictness of pleading shall not be required and a general allegation that the public health requires commitment of the person named therein shall be sufficient.

3. If the board determines that a person with active tuberculosis, or a person who is a potential transmitter, poses an immediate threat by conducting himself or herself so as to expose other persons to an immediate danger of infection, the board may file an ex parte petition for emergency temporary commitment pursuant to subsection 5 of section 199.200.

199.200. PROCEDURE IN CIRCUIT COURT — DUTIES OF LOCAL PROSECUTING OFFICERS — COSTS — EMERGENCY TEMPORARY COMMITMENT, PROCEDURES. — 1. Upon filing of the petition, the court shall set the matter down for a hearing either during term time or in vacation, which time shall be not less than five days nor more than fifteen days subsequent to filing. A copy of the petition together with summons stating the time and place of hearing shall be served upon the person three days or more prior to the time set for the hearing. Any X-ray picture and report of any written report relating to sputum examinations certified by the department of health **or local board** shall be admissible in evidence without the necessity of the personal testimony of the person or persons making the examination and report.

2. The prosecuting attorney or the city attorney shall act as legal counsel for their respective local boards in this proceeding and such authority is hereby granted. The court shall appoint legal counsel for the individual named in the petition if requested to do so if such individual is unable to employ counsel.

3. All court costs incurred in proceedings under sections 199.170 to 199.270, including examinations required by order of the court but excluding examinations procured by the person named in the petition, shall be borne by the county in which the proceedings are brought.

4. Summons shall be served by the sheriff of the county in which proceedings under sections 199.170 to 199.270 are initiated and return thereof shall be made as in other civil cases.

5. Upon the filing of an ex parte petition for emergency temporary commitment pursuant to subsection 3 of section 199.180, the court shall hear the matter within ninety-six hours of such filing. The local board shall have the authority to detain the individual named in the petition pending the court's ruling on the ex parte petition for emergency temporary commitment. If the petition is granted, the individual named in the petition shall be confined in a facility designated by the curators of the University of Missouri in accordance with section 199.230 until a full hearing pursuant to subsections 1 to 4 of this section is held.

376.1199. COVERAGE FOR CERTAIN OBSTETRICAL/GYNECOLOGICAL SERVICES — EXCLUSION OF CONTRACEPTIVE COVERAGE PERMITTED, WHEN — RULEMAKING AUTHORITY. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans providing obstetrical/gynecological benefits and pharmaceutical coverage, which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall:

(1) Notwithstanding the provisions of subsection 4 of section 354.618, RSMo, provide enrollees with direct access to the services of a participating obstetrician, participating gynecologist or participating obstetrician/gynecologist of her choice within the provider network for covered services. The services covered by this subdivision shall be limited to those services defined by the published recommendations of the accreditation council for graduate medical education for training an obstetrician, gynecologist or obstetrician/gynecologist, including but not limited to diagnosis, treatment and referral for such services. A health carrier shall not impose additional co-payments, coinsurance or deductibles upon any enrollee who seeks or receives health care services pursuant to this subdivision, unless similar additional co-payments, coinsurance or deductibles are imposed for other types of health care services received within the provider network. Nothing in

this subsection shall be construed to require a health carrier to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources for or refer a patient for an abortion, as defined in section 188.015, RSMo, other than a spontaneous abortion or to prevent the death of the female upon whom the abortion is performed, or to supersede or conflict with section 376.805; and

(2) Notify enrollees annually of cancer screenings covered by the enrollees' health benefit plan and the current American Cancer Society guidelines for all cancer screenings or notify enrollees at intervals consistent with current American Cancer Society guidelines of cancer screenings which are covered by the enrollees' health benefit plans. The notice shall be delivered by mail unless the enrollee and health carrier have agreed on another method of notification; and

(3) Include coverage for services related to diagnosis, treatment and appropriate management of osteoporosis when such services are provided by a person licensed to practice medicine and surgery in this state, for individuals with a condition or medical history for which bone mass measurement is medically indicated for such individual. In determining whether testing or treatment is medically appropriate, due consideration shall be given to peer reviewed medical literature. A policy, provision, contract, plan or agreement may apply to such services the same deductibles, coinsurance and other limitations as apply to other covered services; and

(4) If the health benefit plan also provides coverage for pharmaceutical benefits, provide coverage for contraceptives either at no charge or at the same level of deductible, coinsurance or co-payment as any other covered drug. No such deductible, coinsurance or co-payment shall be greater than any drug on the health benefit plan's formulary. As used in this section, "contraceptive" shall include all prescription drugs and devices approved by the federal Food and Drug Administration for use as a contraceptive, but shall exclude all drugs and devices that are intended to induce an abortion, as defined in section 188.015, RSMo, which shall be subject to section 376.805. Nothing in this subdivision shall be construed to exclude coverage for prescription contraceptive drugs or devices ordered by a health care provider with prescriptive authority for reasons other than contraceptive or abortion purposes.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

4. Notwithstanding the provisions of subdivision (4) of subsection 1 of this section to the contrary:

(1) Any health carrier may issue to any person or entity purchasing a health benefit plan, a health benefit plan that excludes coverage for contraceptives if the use or provision of such contraceptives is contrary to the moral, ethical or religious beliefs or tenets of such person or entity;

(2) Upon request of an enrollee who is a member of a group health benefit plan and who states that the use or provision of contraceptives is contrary to his or her moral, ethical or religious beliefs, any health carrier shall issue to or on behalf of such enrollee a policy form that excludes coverage for contraceptives. Any administrative costs to a group health benefit plan associated with such exclusion of coverage not offset by the decreased costs of providing coverage shall be borne by the group policyholder or group plan holder;

(3) Any health carrier which is owned, operated or controlled in substantial part by an entity that is operated pursuant to moral, ethical or religious tenets that are contrary

to the use or provision of contraceptives shall be exempt from the provisions of subdivision (4) of subsection 1 of this section.

For purposes of this subsection, if new premiums are charged for a contract, plan or policy, it shall be determined to be a new contract, plan or policy.

5. Except for a health carrier that is exempted from providing coverage for contraceptives pursuant to this section, a health carrier shall allow enrollees in a health benefit plan that excludes coverage for contraceptives pursuant to subsection 4 of this section to purchase a health benefit plan that includes coverage for contraceptives.

6. Any health benefit plan issued pursuant to subsection 1 of this section shall provide clear and conspicuous written notice on the enrollment form or any accompanying materials to the enrollment form and the group health benefit plan contract:

- (1) Whether coverage for contraceptives is or is not included;
- (2) That an enrollee who is a member of a group health benefit plan with coverage for contraceptives has the right to exclude coverage for contraceptives if such coverage is contrary to his or her moral, ethical or religious beliefs; and
- (3) That an enrollee who is a member of a group health benefit plan without coverage for contraceptives has the right to purchase coverage for contraceptives.

7. Health carriers shall not disclose to the person or entity who purchased the health benefit plan the names of enrollees who exclude coverage for contraceptives in the health benefit plan or who purchase a health benefit plan that includes coverage for contraceptives. Health carriers and the person or entity who purchased the health benefit plan shall not discriminate against an enrollee because the enrollee excluded coverage for contraceptives in the health benefit plan or purchased a health benefit plan that includes coverage for contraceptives.

8. The departments of health and insurance may promulgate rules necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

376.1290. COVERAGE FOR LEAD TESTING. — 1. Each entity offering individual and group health insurance policies providing coverage on an expense- incurred basis, individual and group service or indemnity type contracts issued by a health services corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group arrangements, to the extent not preempted by federal law, and all managed health care delivery entities of any type or description that are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall offer coverage for testing pregnant women for lead poisoning and for all testing for lead poisoning authorized by sections 701.340 to 701.349, RSMo, or by rule of the department of health promulgated pursuant to sections 701.340 to 701.349, RSMo.

2. Health care services required by this section shall not be subject to any greater deductible or co-payment than any other health care service provided by the policy, contract or plan.

3. No entity enumerated in subsection 1 of this section shall reduce or eliminate coverage as a result of the requirements of this section.

4. Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policies.

701.322. LABORATORY SERVICES FOR DISEASE, LEAD CONTENT — FEE. — Upon request of a physician, health care facility or third-party insurer, the department may provide laboratory services for tests related to contagious or infectious diseases. The department may conduct laboratory testing of blood specimens for lead content on behalf of a physician, hospital, clinic, free clinic, municipality or private organization which cannot secure or provide such services through other sources. The department of health may charge a fee for laboratory services rendered [under] **pursuant to this section.** [Such] **Fees for tests related to contagious or infectious diseases** shall be deposited in a separate account in the Missouri public health services fund, created in section 192.900, RSMo, and funds in such account shall be used to provide laboratory testing services by the department. **Fees for laboratory testing of blood specimens for lead content shall be deposited in the childhood lead testing fund created in section 701.345, RSMo.**

701.326. LEAD POISONING INFORMATION REPORTING SYSTEM — LEVEL OF POISONING TO BE REPORTED — HEALTH CARE PROFESSIONAL AND DEPARTMENT DIRECTOR TO PROVIDE INFORMATION. — 1. The department of health shall establish and maintain a lead poisoning information reporting system which shall include a record of lead poisoning cases which occur in Missouri along with the information concerning these cases which is deemed necessary and appropriate to conduct comprehensive epidemiologic studies of lead poisoning in this state and to evaluate the appropriateness of lead abatement programs.

2. The director of the department of health shall promulgate rules and regulations specifying the level of lead poisoning which shall be reported and any accompanying information to be reported in each case. Such information may include the patient's name, **full residence address, and diagnosis, including the blood lead level.** **Such information may include** pathological findings, the stage of the disease, environmental and known occupational factors, method of treatment and other relevant data from medical histories. Reports of lead poisoning shall be filed with the director of the department of health within a period of time specified by the director. The department shall prescribe the form and manner in which the information shall be reported.

3. The attending health care professional of any patient with lead poisoning shall provide to the department of health the information required pursuant to this section.

4. When a case of lead poisoning is reported to the director, the director shall inform such local boards of health, public health agencies, and other persons and organizations as the director deems necessary; provided that, the name of any child contracting lead poisoning shall not be included unless the director determines that such inclusion is necessary to protect the health and well-being of the affected individual.

701.328. IDENTITY OF PERSONS PARTICIPATING TO BE PROTECTED — CONSENT FOR RELEASE FORM, WHEN REQUESTED — USE AND PUBLISHING OF REPORTS. — 1. The department of health shall protect the identity of the patient and physician involved in the reporting required by sections 701.318 to [701.330] **701.349.** Such identity shall not be revealed except that the identity of the patient shall be released only upon written consent of the patient. The identity of the physician shall be released only upon written consent of the physician.

2. The department may release without consent any information obtained pursuant to sections 701.318 to [701.330] **701.349,** including the identities of certain patients or physicians, when the information is necessary for the performance of duties by public employees within, or the legally designated agents of, any state or local agency, department or political subdivision,

but only when such employees and agents need to know such information to perform their public duties.

3. The department shall use or publish reports based upon materials reported pursuant to sections 701.318 to [701.330] **701.349** to advance research, education, treatment and lead abatement. **The department shall geographically index the data from lead testing reports to determine the location of areas of high incidence of lead poisoning.** The department shall provide qualified researchers with data from the reported information upon the researcher's compliance with appropriate conditions as provided by rule and upon payment of a fee to cover the cost of processing the data.

701.340. CHILDHOOD LEAD TESTING PROGRAM ESTABLISHED — TEST TO BE USED — PARENTAL OBJECTION. — 1. Beginning January 1, 2002, the department of health shall, subject to appropriations, implement a childhood lead testing program which requires every child less than six years of age to be tested for lead poisoning in accordance with the provisions of sections 701.340 to 701.349. In coordination with the department of health, every health care facility serving children less than six years of age, including but not limited to hospitals and clinics licensed pursuant to chapter 197, RSMo, shall take appropriate steps to ensure that their patients receive such lead poisoning testing.

2. The test for lead poisoning shall consist of a blood sample that shall be sent for analysis to a laboratory licensed pursuant to the federal Clinical Lab Improvement Act (CLIA). The department of health shall, by rule, determine the blood test protocol to be used.

3. Nothing in sections 701.340 to 701.349 shall be construed to require a child to undergo lead testing whose parent or guardian objects to the testing in a written statement that states the parent's or guardian's reason for refusing such testing.

701.342. HIGH RISK AREAS IDENTIFIED — ASSESSMENT AND TESTING REQUIREMENTS — LABORATORY REPORTING — ADDITIONAL TESTING REQUIRED, WHEN. — 1. The department of health shall, using factors established by the department, including but not limited to the geographic index from data from testing reports, identify geographic areas in the state that are at high risk for lead poisoning. All children six months of age through six years of age who reside or spend more than ten hours a week in an area identified as high risk by the department shall be tested annually for lead poisoning.

2. Every child six months through six years of age not residing or spending more than ten hours a week in geographic areas identified as high risk by the department shall be assessed annually using a questionnaire to determine whether such child is at high risk for lead poisoning. The department, in collaboration with the department of social services, shall develop the questionnaire, which shall follow the recommendations of the federal Centers for Disease Control and Prevention. The department may modify the questionnaire to broaden the scope of the high-risk category. Local boards or commissions of health may add questions to the questionnaire.

3. Every child deemed to be at high risk for lead poisoning according to the questionnaire developed pursuant to subsection 2 of this section shall be tested using a blood sample.

4. Any child deemed to be at high risk for lead poisoning pursuant to this section who resides in housing currently undergoing renovations may be tested at least once every six months during the renovation and once after the completion of the renovation.

5. Any laboratory providing test results for lead poisoning pursuant to sections 701.340 to 701.349 shall notify the department of the test results of any child tested for lead poisoning as required in section 701.326. Any child who tests positive for lead poisoning shall receive follow-up testing in accordance with rules established by the department.

The department shall, by rule, establish the methods and intervals of follow-up testing and treatment for such children.

6. When the department is notified of a case of lead poisoning, the department shall require the testing of all other children less than six years of age, and any other children or persons at risk, as determined by the director, who are residing or have recently resided in the household of the lead poisoned child.

701.343. DUTIES OF THE DEPARTMENT. — The department of health shall have the following duties regarding the childhood lead testing program:

(1) By January 1, 2002, the department shall develop an educational mailing to be sent to every physician licensed by and practicing in this state informing such physician of the childhood lead testing program and the responsibilities of physicians pursuant to such program;

(2) The department of health shall, by January 1, 2002, develop guidelines, educational materials and a questionnaire to be used by physicians to determine whether pregnant women are at high risk and should be tested for lead poisoning;

(3) The department shall apply for, take all steps necessary to qualify for and accept any federal funds made available or allotted pursuant to any federal act or program for state lead poisoning prevention programs;

(4) The director of the department of health or the director's designee may, subject to appropriations, contract with a public agency or a university, or collaborate with any agencies, individuals or groups to provide necessary services, develop educational programs, scientific research and organization, and interpret data from lead testing reports;

(5) The department shall promulgate such rules as may be necessary; and

(6) Beginning January 1, 2003, and every January first thereafter, the department of health shall submit a report evaluating the childhood lead testing program as set forth in sections 701.340 to 701.349 to the governor and the following committees of the Missouri legislature: senate appropriations committee, senate public health and welfare committee, house appropriations - health and mental health committee and house public health committee.

701.344. EVIDENCE OF LEAD POISONING TESTING REQUIRED FOR CHILD-CARE FACILITIES LOCATED IN HIGH RISK AREAS — NO DENIAL OF ACCESS TO EDUCATION PERMITTED. — 1. In geographic areas determined to be of high risk for lead poisoning as set forth in section 701.342, every child care facility, as defined in section 210.201, RSMo, and every child care facility affiliated with a school system, a business organization or a nonprofit organization shall, within thirty days of enrolling a child, require the child's parent or guardian to provide evidence of lead poisoning testing in the form of a statement from the health care professional that administered the test or provide a written statement that states the parent's or guardian's reason for refusing such testing. If there is no evidence of testing, the person in charge of the facility shall provide the parent or guardian with information about lead poisoning and locations in the area where the child can be tested. When a parent or guardian cannot obtain such testing, the person in charge of the facility may arrange for the child to be tested by a local health officer with the consent of the child's parent or guardian. At the beginning of each year of enrollment in such facility, the parent or guardian shall provide proof of testing in accordance with the provisions of sections 701.340 to 701.349 and any rules promulgated thereunder.

2. No child shall be denied access to education or child care because of failure to comply with the provisions of sections 701.340 to 701.349.

701.345. CHILDHOOD LEAD TESTING FUND CREATED. — 1. There is hereby created in the state treasury the "Childhood Lead Testing Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources related to lead testing, education and screening. The general assembly may appropriate moneys to the fund for the support of the childhood lead testing program established in sections 701.340 to 701.349. The moneys in the fund shall be used to fund the administration of childhood lead programs, the administration of blood tests to uninsured children, educational materials and analysis of lead blood test reports and case management.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

701.346. RULEMAKING AUTHORITY. — The department of health shall promulgate rules to implement the provisions of sections 701.340 to 701.349. No rule or portion of a rule promulgated under the authority of sections 701.340 to 701.349 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

701.348. POLITICAL SUBDIVISIONS MAY PROVIDE MORE STRINGENT REQUIREMENTS. — Nothing in sections 701.340 to 701.349 shall prohibit a political subdivision of this state or a local board of health from enacting and enforcing ordinances, rules or laws for the prevention, detection and control of lead poisoning which provide the same or more stringent provisions as sections 701.340 to 701.349, or the rules promulgated thereunder.

701.349. SEVERABILITY CLAUSE. — If any provisions of sections 701.340 to 701.349, or the application thereof, to any persons or circumstances is held invalid, such validity shall not affect other provisions or applications of sections 701.340 to 701.349 that can be given effect without the invalid provision or application, and to this end the provisions of sections 701.340 to 701.349 are declared to be severable.

Approved July 12, 2001

SB 267 [CCS HS HCS SS SCS SB 267]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises various civil and criminal procedures.

AN ACT to repeal sections 43.503, 56.085, 56.765, 57.130, 67.133, 194.115, 210.140, 247.224, 287.610, 303.025, 374.700, 452.556, 455.040, 476.010, 478.610, 479.020, 479.150, 482.330, 483.500, 488.426, 488.429, 488.447, 488.607, 488.5332, 488.5336, 490.130, 491.300, 508.190, 512.180, 534.070, 535.030, 550.120, 565.030, 574.075, 595.030, 595.035, 595.045, 610.105, 632.480, 632.483, 632.492 and 632.495, RSMo 2000, section 303.041 as enacted by senate substitute for house substitute for house committee substitute for house bill no. 1797, ninetieth general assembly, second regular session, and section 303.041 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, relating to court procedures, and to enact in lieu thereof fifty-five new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
 - 43.503. Arrest, charge and disposition of misdemeanors and felonies to be sent to highway patrol — procedure for certain juveniles.
 - 56.085. Criminal investigations, prosecutors or circuit attorneys may obtain subpoena for witnesses, records and books.
 - 56.765. Funding — surcharge to be collected in criminal and infraction cases, exceptions — registration fees — funds created — audit — use of fund.
 - 57.130. Penalties and forfeitures, collection of — expiration date.
 - 67.133. Court costs in civil and criminal cases, exceptions — collection and deposit procedure — distribution — county entitled to judgment, when.
 - 194.115. Autopsy — consent required — penalty for violation — availability of report, to whom.
 - 210.140. Privileged communication not recognized, exception.
 - 247.165. Water service to annexed territory, agreement may be developed, procedure.
 - 247.171. Proportion of sum of all outstanding bonds and debts, calculation.
 - 287.610. Administrative law judges, appointment and qualification — annual evaluations — removal, review committee, process — jurisdiction, powers — continuing training required — rules.
 - 303.025. Duty to maintain financial responsibility, misdemeanor penalty for failure to maintain — exception, methods — court to notify department of revenue, additional punishment, right of appeal.
 - 303.041. Failure to maintain financial responsibility — notice, procedure, contents — suspension of license and registration — request for hearing, right, effect — subsequent acquisition of financial responsibility, effect — duration of suspension, fee.
 - 303.041. Failure to maintain financial responsibility — notice, procedure, contents — suspension of license and registration — request for hearing, right, effect — subsequent acquisition of financial responsibility, effect — duration of suspension, fee.
 - 374.700. Definitions.
 - 374.757. Notification by agent of intention to apprehend — local law enforcement may accompany agent — violations, penalties.
 - 386.515. Exclusivity of circuit court review procedure — rehearing, procedure.
 - 452.556. Handbook, contents, availability.
 - 455.040. Hearings, when — duration of orders, renewal, requirements — copies of orders to be given, validity — duties of law enforcement agency — information may be entered in MULES.
 - 476.010. Courts of record.
 - 476.365. Certification of official court reporters required.
 - 478.610. Circuit No. 13, number of judges, divisions — when judges elected — additional associate circuit judge for Boone County, when.
 - 479.020. Municipal judges, selection, tenure, jurisdiction, qualifications, course of instruction.
 - 479.150. Trial by jury, certification for assignment — exception, Springfield municipal court, when, procedure, costs.
 - 482.330. Restrictions on filing of claims — statement required of plaintiff — counterclaim not prohibited — suit may be brought, where.
 - 483.500. Fees of the clerks of the supreme court and court of appeals — collection.
 - 488.426. Deposit required in civil actions — exemptions — surcharge to remain in effect.
 - 488.429. Fund paid to treasurer designated by circuit judge — use of fund for law library.
 - 488.447. Court restoration fund — special surcharge in civil cases to be deposited in fund — exempt cases — expires when.
 - 488.607. Additional surcharges authorized for municipal and associate circuit courts for cities and towns having shelters for victims of domestic violence, amount, exceptions.
 - 488.5332. Surcharge in criminal cases, when, exceptions — payment to independent living center fund.
 - 488.5336. Court costs may be increased, amount, how, exceptions, deposit — additional assessment — use of funds — amount of reimbursement.
 - 490.130. Certified records of courts to be evidence.
 - 491.300. Fees of interpreters.
 - 508.190. Party applying to pay costs, when — paid to which county — jury selection and service costs paid by county in which case originated.
 - 512.180. Appeals from cases tried before associate circuit judge.
 - 534.070. Complaint and summons — court date assigned, when.
 - 535.030. Service of summons — court date included in summons.
 - 536.160. Refund of funds paid into court, when.
 - 547.035. Postconviction DNA testing for persons in the custody of the department — motion, contents — procedure.
 - 547.037. Motion for release filed, when, procedure.
 - 550.120. Costs in change of venue — costs defined.
 - 565.030. Trial procedure, first degree murder.
 - 574.075. Drunkenness or drinking in certain places prohibited — violation a misdemeanor.
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- 595.030. Compensation, out-of-pocket loss requirement, maximum amount for counseling expenses — award, computation — deduction — medical care, requirements — counseling, requirements — maximum award — joint claimants, distribution — method, timing of payment determined by division.
- 595.035. Award standards to be established — amount of award, factors to be considered — purpose of fund, reduction for other compensation received by victim, exceptions — time limitation.
- 595.045. Funding — costs for certain violations, amount, distribution of funds, audit — judgments in certain criminal cases, amount — failure to pay, effect, notice — court cost deducted — insufficient funds to pay claims, procedure — interest earned, disposition — contingent expiration date for certain subsections.
- 610.105. Effect of nolle pros — dismissal — sentence suspended on record — not guilty due to mental disease or defect, effect.
- 632.480. Definitions.
- 632.483. Notice to attorney general, when — contents of notice — immunity from liability, when — multidisciplinary team established — prosecutors' review committee established.
- 632.492. Trial — procedure — assistance of counsel, right to jury, when.
- 632.495. Unanimous verdict required — offender committed to custody of department of mental health, when — release, when — mistrial procedures.
- 650.300. Definitions.
- 650.310. Office of victims of crime established, purpose — duties.
1. Evidence capable of being tested for DNA must be preserved by highway patrol.
 2. Additional \$20 court cost imposed, municipal ordinance violations — waiver, when — collection (St. Louis City).
 3. Additional \$5 court cost imposed, municipal ordinance violations — waiver, when — collection (St. Louis City).
- 247.224. Residents may elect to be removed from a public water supply district if unable to receive services, procedure, liability for costs (Franklin County).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.503, 56.085, 56.765, 57.130, 67.133, 194.115, 210.140, 247.224, 287.610, 303.025, 303.041, 374.700, 452.556, 455.040, 476.010, 478.610, 479.020, 479.150, 482.330, 483.500, 488.426, 488.429, 488.447, 488.607, 488.5332, 488.5336, 490.130, 491.300, 508.190, 512.180, 534.070, 535.030, 550.120, 565.030, 574.075, 595.030, 595.035, 595.045, 610.105, 632.480, 632.483, 632.492 and 632.495, RSMo 2000, section 303.041 as enacted by senate substitute for house substitute for house committee substitute for house bill no. 1797, ninetieth general assembly, second regular session, and section 303.041 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, are repealed and fifty-five new sections enacted in lieu thereof, to be known as sections 43.503, 56.085, 56.765, 57.130, 67.133, 194.115, 210.140, 247.165, 247.171, 287.610, 303.025, 303.041, 374.700, 374.757, 386.515, 452.556, 455.040, 476.010, 476.365, 478.610, 479.020, 479.150, 482.330, 483.500, 488.426, 488.429, 488.447, 488.607, 488.5332, 488.5336, 490.130, 491.300, 508.190, 512.180, 534.070, 535.030, 536.160, 547.035, 547.037, 550.120, 565.030, 574.075, 595.030, 595.035, 595.045, 610.105, 632.480, 632.483, 632.492, 632.495, 650.300, 650.310, 1, 2 and 3, to read as follows:

43.503. ARREST, CHARGE AND DISPOSITION OF MISDEMEANORS AND FELONIES TO BE SENT TO HIGHWAY PATROL — PROCEDURE FOR CERTAIN JUVENILES. — 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.530.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied by the highway patrol. All such agencies shall also notify the central repository of all

decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, and descriptions to the central repository upon its behalf. In instances where an individual less than seventeen years of age is taken into custody for an offense which would be considered a felony if committed by an adult, the arresting officer shall take one set of fingerprints for the central repository and may take another set for inclusion in a local or regional automated fingerprint identification system. These fingerprints shall be taken on fingerprint cards which are plainly marked "juvenile card" and shall be provided by the central repository. The fingerprint cards shall be so constructed that only the fingerprints, unique identifying number, and the court of jurisdiction are made available to the central or local repository. The remainder of the card which bears the individual's identification and the duplicate unique number shall be provided to the court of jurisdiction. The appropriate portion of the juvenile fingerprint card shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards. In the event the fingerprints from this card are found to match latent prints searched in the automated fingerprint identification system, the court of jurisdiction shall be so advised.

3. The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

4. The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol, with all final dispositions of criminal cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to subsections 6 and 7 of this section. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the reporting court, using such numbers as assigned by the highway patrol.

5. The clerk of the courts of each county or city not within a county shall furnish court judgment and sentence documents and the state offense cycle number of the offense, which result in the commitment or assignment of an offender, to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested, within ten days of such disposition.

6. After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or

disseminated by the central repository, or commits a person to the department of mental health pursuant to chapter 552, RSMo, the [prosecuting attorney or the circuit attorney of a city not within a county shall ask the] court [to] **shall** order a law enforcement agency to fingerprint immediately all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case. [The court shall order the requested fingerprinting if it determines that any sentenced or committed person has not previously been fingerprinted for the same case.] The law enforcement agency shall submit such fingerprints to the central repository without undue delay.

7. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.530 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

56.085. CRIMINAL INVESTIGATIONS, PROSECUTORS OR CIRCUIT ATTORNEYS MAY OBTAIN SUBPOENA FOR WITNESSES, RECORDS AND BOOKS. — In the course of a criminal investigation, the prosecuting or circuit attorney may request the circuit **or associate circuit** judge to issue a subpoena to any witness who may have information for the purpose of oral examination under oath to require the production of books, papers, records, or other material of any evidentiary nature at the office of the prosecuting or circuit attorney requesting the subpoena.

56.765. FUNDING — SURCHARGE TO BE COLLECTED IN CRIMINAL AND INFRACTION CASES, EXCEPTIONS — REGISTRATION FEES — FUNDS CREATED — AUDIT — USE OF FUND.

— 1. A surcharge of one dollar shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of a criminal or traffic law of the state, including an infraction; except that no such surcharge shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.

2. One-half of all moneys collected under the provisions of subsection 1 of this section shall be payable to the state of Missouri and remitted to the director of revenue who shall deposit the amount collected pursuant to this section to the credit of the "Missouri Office of Prosecution Services Fund" which is hereby created in the state treasury. The moneys credited to the Missouri office of prosecution services fund from each county shall be used only for the purposes set forth in sections 56.750, 56.755, and 56.760[, and no moneys from the state's general revenue shall be used to fund staff positions for the office]. The state treasurer shall be the custodian of the fund, and shall make disbursements, as allowed by lawful appropriations. All earnings resulting from the investment of money in the fund shall be credited to the Missouri office of prosecution services fund. The Missouri office of prosecution services may collect a registration fee to pay for [actual] expenses included in sponsoring training conferences. The revenues and expenditures of the Missouri office of prosecution services shall be subject to an annual audit to be performed by the Missouri state auditor. The Missouri office of prosecution services shall also be subject to any other audit authorized and directed by the state auditor.

3. One-half of all moneys collected under the provisions of subsection 1 of this section shall be payable to the county treasurer of each county from which such funds were generated. The county treasurer shall deposit all of such funds into the county treasury in a separate fund to be used solely for the purpose of additional training for circuit and prosecuting attorneys and their staffs. If the funds collected and deposited by the county are not totally expended annually for the purposes set forth in this subsection, then the unexpended moneys shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year, or at the request of

the circuit or prosecuting attorney, with the approval of the county commission or the appropriate governing body of the county or the city of St. Louis, and may be used to pay for expert witness fees, travel expenses incurred by victim/witnesses in case preparation and trial, for expenses incurred for changes of venue, for expenses incurred for special prosecutors, and for other lawful expenses incurred by the circuit or prosecuting attorney in operation of that office.

4. There is hereby established in the state treasury the "Missouri Office of Prosecution Services Revolving Fund". Any moneys received by or on behalf of the Missouri office of prosecution services from registration fees, federal and state grants or any other source established in section 56.760 in connection with the purposes set forth in sections 56.750, 56.755, and 56.760 shall be deposited into the fund.

5. The moneys in the Missouri office of prosecution services revolving fund shall be kept separate and apart from all other moneys in the state treasury. The state treasurer shall administer the fund and shall disburse moneys from the fund to the Missouri office of prosecution services pursuant to appropriations for the purposes set forth in sections 56.750, 56.755 and 56.760.

6. Any unexpended balances remaining in the Missouri office of prosecution services fund and the Missouri office of prosecution services revolving fund at each biennium shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to general revenue.

57.130. PENALTIES AND FORFEITURES, COLLECTION OF — EXPIRATION DATE. — 1.

The sheriffs of the several counties shall collect and account for all the fines, penalties, forfeitures and other sums of money, by whatever name designated, accruing to the state or any county by virtue of any order, judgment or decree of a court of record, provided that by court rule provision may be made for a court clerk to collect fines, penalties, forfeitures and other sums of money accruing to the state by virtue of any order, judgment or decree of the court.

2. The provisions of this section shall expire and be of no force and effect on and after July 1, [2002] **2007**.

67.133. COURT COSTS IN CIVIL AND CRIMINAL CASES, EXCEPTIONS — COLLECTION AND DEPOSIT PROCEDURE — DISTRIBUTION — COUNTY ENTITLED TO JUDGMENT, WHEN.

— 1. A fee of ten dollars shall be assessed in all cases in which the defendant is convicted of [violating] **a nonfelony violation** of any provision of chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, and any infraction otherwise provided by law, twenty-five dollars in all misdemeanor cases otherwise provided by law, and seventy-five dollars in all felony cases, in criminal cases including violations of any county ordinance or any violation of a criminal or traffic law of the state, except that no such fees shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. All fees collected under the provisions of this section shall be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo, and payable to the county treasurer who shall deposit those funds in the county treasury.

2. Counties shall be entitled to a judgment in the amount of twenty-five percent of all sums collected on recognizances given to the state in criminal cases, which are or may become forfeited, if not more than five hundred dollars, and fifteen percent of all sums over five hundred dollars, to be paid out of the amount collected.

194.115. AUTOPSY — CONSENT REQUIRED — PENALTY FOR VIOLATION — AVAILABILITY OF REPORT, TO WHOM. — 1.

Except when **ordered or** directed by a public officer, **court of record** or agency authorized by law to order an autopsy or postmortem examination, it is unlawful for any licensed physician and surgeon to perform an autopsy or postmortem examination upon the remains of any person without the consent of one of the following:

- (1) The deceased, if in writing, and duly signed and acknowledged prior to his death; or
- (2) A person designated by the deceased in a durable power of attorney that expressly refers to the giving of consent to an autopsy or postmortem examination; or
- (3) The surviving spouse; or
- (4) If the surviving spouse through injury, illness or mental capacity is incapable of giving his or her consent, or if the surviving spouse is unknown, or his or her address unknown or beyond the boundaries of the United States, or if he or she has been separated and living apart from the deceased, or if there is no surviving spouse, then any surviving child, parent, brother or sister, in the order named; or
- (5) If no surviving child, parent, brother or sister can be contacted by telephone or telegraph, then any other relative, by blood or marriage; or
- (6) If there are no relatives who assume the right to control the disposition of the remains, then any person, friend or friends who assume such responsibility.

2. If the surviving spouse, child, parent, brother or sister hereinabove mentioned is under the age of twenty-one years, but over the age of sixteen years, such minor shall be deemed of age for the purpose of granting the consent hereinabove required.

3. Any licensed physician and surgeon performing an autopsy or postmortem examination with the consent of any of the persons enumerated in subsection 1 of this section shall use his judgment as to the scope and extent to be performed, and shall be in no way liable for such action.

4. It is unlawful for any licensed physician, unless specifically authorized by law, to hold a postmortem examination on any unclaimed dead without the consent required by section 194.170.

5. Any person not a licensed physician performing an autopsy or any licensed physician performing an autopsy without the authorization herein required shall upon conviction be adjudged guilty of a misdemeanor, and subject to the penalty provided for in section 194.180.

6. If an autopsy is performed on a deceased patient and an autopsy report is prepared, such report shall be made available upon request to the personal representative or administrator of the estate of the deceased, the surviving spouse, any surviving child, parent, brother or sister of the deceased.

210.140. PRIVILEGED COMMUNICATION NOT RECOGNIZED, EXCEPTION. — Any legally recognized privileged communication, except that between attorney and client **or involving communications made to a minister or clergy person**, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted by sections 210.110 to 210.165, to cooperate with the division in any of its activities pursuant to sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

247.165. WATER SERVICE TO ANNEXED TERRITORY, AGREEMENT MAY BE DEVELOPED, PROCEDURE. — **1. Whenever all or any part of a territory located within a public water supply district organized pursuant to sections 247.010 to 247.220 is included by annexation within the corporate limits of a municipality, but is not receiving water service from such district or such municipality at the time of such annexation, the municipality and the board of directors of the district may, within six months after such annexation becomes effective, develop an agreement to provide water service to the annexed territory. Such an agreement may also be developed within six months after the effective date of this section for territory that was annexed between January 1, 1996, and the effective date of this section but was not receiving water service from such district or such municipality on the effective date of this section, except that such territory annexed in a county of the first classification without a charter form of government and with a population of more than sixty-three thousand eight hundred but less than seventy**

thousand inhabitants must have been annexed between January 1, 1999, and the effective date of this section. For the purposes of this section, "not receiving water service" shall mean that no water is being sold within the annexed territory by such district or municipality. If the municipality and district reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court originally incorporating such district, and the court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.110 to 247.227. Such subdistrict lines shall not become effective until the next election after the effective date of the agreement. At such time that the court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a municipality and a water district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

2. In any case in which the board of directors of such district and such municipality cannot reach such an agreement, an application may be made by the district or the municipality to the circuit court originally incorporating such district, requesting that three commissioners develop such an agreement. Such application shall include the name of one commissioner appointed by the applying party. The second party shall appoint one commissioner within thirty days of the service of the application upon the second party. If the second party fails to appoint a commissioner within such time period, the court shall appoint a commissioner on behalf of the second party. Such two named commissioners may agree to appoint a third disinterested commissioner within thirty days after the appointment of the second commissioner. In any case in which such two commissioners cannot agree on or fail to make the appointment of the third disinterested commissioner within thirty days after the appointment of the second commissioner, the court shall appoint the third disinterested commissioner.

3. Upon the filing of such application and the appointment of three such commissioners, the court shall set a time for one or more hearings and shall order a public notice including the nature of the application, the annexed area affected, the names of the commissioners, and the time and place of such hearings, to be published for three weeks consecutively in a newspaper published in the county in which the application is pending, the last publication to be not more than seven days before the date set for the first hearing.

4. The commissioners shall develop an agreement between the district and the municipality to provide water service to the annexed territory. In developing the agreement, the commissioners shall consider information presented to them at hearings and any other information at their disposal including, but not limited to:

- (1) The estimated future loss of revenue and costs for the water district related to the agreement;
- (2) The amount of indebtedness of the water district within the annexed territory;
- (3) Any contractual obligations of the water district within the annexed area; and
- (4) The effect of the agreement on the water rates of the district.

Such agreement shall also include a recommendation for the apportionment of court costs, including reasonable compensation for the commissioners, between the municipality and the water district.

5. If the court finds that the agreement provides for necessary water service in the annexed territory, then such agreement shall be fully effective upon approval by the court. The court shall also review the recommended apportionment of court costs and the reasonable compensation for the commissioners and affirm or modify such recommendations.

6. The order and judgment of the court shall be subject to appeal as provided by law.

7. If the court approves a detachment as part of the territorial agreement, it shall make its order and judgment detaching the territory described in the petition from the remainder of the district and stating the boundary lines of the district after such detachment. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.110 to 247.227. Any subdistrict lines shall not become effective until the next annual regular election.

8. At such time that the court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located.

247.171. PROPORTION OF SUM OF ALL OUTSTANDING BONDS AND DEBTS, CALCULATION. — The proportion of the sum of all outstanding bonds and debt, with interest thereon, that is required to be paid to the water supply district, pursuant to subsection 1 of section 247.031, and subdivision (5) of subsection 1 of section 247.170, shall be the same as the proportion of the assessed valuation of the real and tangible personal property within the area sought to be detached and excluded bears to the assessed valuation of all of the real and tangible personal property within the entire area of the water supply district.

287.610. ADMINISTRATIVE LAW JUDGES, APPOINTMENT AND QUALIFICATION — ANNUAL EVALUATIONS — REMOVAL, REVIEW COMMITTEE, PROCESS — JURISDICTION, POWERS — CONTINUING TRAINING REQUIRED — RULES. — 1. The division may appoint such number of administrative law judges as it may find necessary, but not exceeding twenty-five in number beginning January 1, 1999, with one additional appointment authorized as of July 1, 2000, and one additional appointment authorized in each succeeding year thereafter until and including the year 2004, for a maximum of thirty authorized administrative law judges. Appropriations for any additional appointment shall be based upon necessity, measured by the requirements and needs of each division office. Administrative law judges shall be duly licensed lawyers under the laws of this state. Administrative law judges shall not practice law or do law business and shall devote their whole time to the duties of their office. Any administrative law judge may be discharged or removed only by the governor pursuant to an evaluation and recommendation by the administrative law judge review committee, hereinafter referred to as "the committee", of the judge's conduct, performance and productivity.

2. The division shall require and perform annual evaluations of an administrative law judge, associate administrative law judge and legal advisor's conduct, performance and productivity based upon written standards established by rule. The division, by rule, shall establish the written standards on or before January 1, 1999.

(1) After an evaluation by the division, any administrative law judge, associate administrative law judge or legal advisor who has received an unsatisfactory evaluation in any of the three categories of conduct, performance or productivity, may appeal the evaluation to the committee.

(2) The division director [may] **shall** refer an unsatisfactory evaluation of any administrative law judge, associate administrative law judge or legal advisor to the committee.

(3) When a written, signed complaint is made against an administrative law judge, associate administrative law judge or legal advisor, it shall be referred to the director of the division for a determination of merit. When the director finds the complaint has merit, it shall be referred to the committee for investigation and review.

3. The administrative law judge review committee shall be composed of one administrative law judge, who shall act as a peer judge on the committee and shall be domiciled in a division office other than that of the judge being reviewed, one employee representative and one

employer representative, neither of whom shall have any direct or indirect employment or financial connection with a workers' compensation insurance company, claims adjustment company, health care provider nor be a practicing workers' compensation attorney. The employee representative and employer representative shall have a working knowledge of workers' compensation. The employee and employer representative shall serve for four-year staggered terms and they shall be appointed by the governor. The initial employee representative shall be appointed for a two-year term. The administrative law judge who acts as a peer judge shall be appointed by the chairman of the labor and industrial relations commission and shall not serve on any two consecutive reviews conducted by the committee. Chairmanship of the committee shall rotate between the employee representative and the employer representative every other year. Staffing for the administrative review committee shall be provided, as needed, by the director of the department of labor and industrial relations and shall be funded from the workers' compensation fund. The committee shall conduct a hearing as part of any review of a referral or appeal made according to subsection 2 of this section.

4. The committee shall determine within thirty days whether an investigation shall be conducted for a referral made pursuant to subdivision (3) of subsection 2 of this section. The committee shall make a final referral to the governor pursuant to subsection 1 of this section within two hundred seventy days of the receipt of a referral or appeal.

5. The administrative law judges appointed by the division shall only have jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction upon any review hearing, either in the way of an appeal from an original hearing or by way of reopening any prior award, except to correct a clerical error in an award or settlement if the correction is made by the administrative law judge within twenty days of the original award or settlement. The labor and industrial relations commission may remand any decision of an administrative law judge for a more complete finding of facts. The commission may also correct a clerical error in awards or settlements within thirty days of its final award. With respect to original hearings, the administrative law judges shall have such jurisdiction and powers as are vested in the division of workers' compensation under other sections of this chapter, and wherever in this chapter the word "commission", "commissioners" or "division" is used in respect to any original hearing, those terms shall mean the administrative law judges appointed under this section. When a hearing is necessary upon any claim, the division shall assign an administrative law judge to such hearing. Any administrative law judge shall have power to approve contracts of settlement, as provided by section 287.390, between the parties to any compensation claim or dispute under this chapter pending before the division of workers' compensation. Any award by an administrative law judge upon an original hearing shall have the same force and effect, shall be enforceable in the same manner as provided elsewhere in this chapter for awards by the labor and industrial relations commission, and shall be subject to review as provided by section 287.480.

6. Any of the administrative law judges employed pursuant to this section may be assigned on a temporary basis to the branch offices as necessary in order to ensure the proper administration of this chapter.

7. All administrative law judges and legal advisors shall be required to participate in, on a continuing basis, specific training that shall pertain to those elements of knowledge and procedure necessary for the efficient and competent performance of the administrative law judges' and legal advisors' required duties and responsibilities. Such training requirements shall be established by the division subject to appropriations and shall include training in medical determinations and records, mediation and legal issues pertaining to workers' compensation adjudication. Such training may be credited toward any continuing legal education requirements.

8. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

303.025. DUTY TO MAINTAIN FINANCIAL RESPONSIBILITY, MISDEMEANOR PENALTY FOR FAILURE TO MAINTAIN — EXCEPTION, METHODS — COURT TO NOTIFY DEPARTMENT OF REVENUE, ADDITIONAL PUNISHMENT, RIGHT OF APPEAL. —

1. No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of the other's vehicle; however, no owner shall be in violation of this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation. The director may prescribe rules and regulations for the implementation of this section.

2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner provided for in section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state.

3. Any person who violates this section is guilty of a class C misdemeanor. However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he or she met the financial responsibility requirements of this section at the time the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the citation. In addition to any other authorized punishment, the court shall notify the director of revenue of any person convicted pursuant to this section and shall do one of the following:

(1) Enter an order suspending the driving privilege as of the date of the court order. If the court orders the suspension of the driving privilege, the court shall require the defendant to surrender to it any driver's license then held by such person. The length of the suspension shall be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of revenue the order of suspension of driving privilege and any license surrendered within ten days;

(2) Forward the record of the conviction for an assessment of four points; or

(3) In lieu of an assessment of points, render an order of supervision as provided in section 302.303, RSMo. An order of supervision shall not be used in lieu of points more than one time in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this section shall forward a record of conviction [or the order of supervision to the department of revenue within ten days] **to the Missouri state highway patrol, or at the written direction of the Missouri state highway patrol, to the department of revenue, in a manner approved by the director of the department of public safety.** The director shall establish procedures for the record keeping and administration of this section.

4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370 shall be construed as prohibiting the department of insurance from approving or authorizing those exclusions and limitations which are contained in automobile liability insurance policies and the uninsured motorist provisions of automobile liability insurance policies.

5. If a court enters an order of suspension, the offender may appeal such order directly pursuant to chapter 512, RSMo, and the provisions of section 302.311, RSMo, shall not apply.

303.041. FAILURE TO MAINTAIN FINANCIAL RESPONSIBILITY — NOTICE, PROCEDURE, CONTENTS — SUSPENSION OF LICENSE AND REGISTRATION — REQUEST FOR HEARING, RIGHT, EFFECT — SUBSEQUENT ACQUISITION OF FINANCIAL RESPONSIBILITY, EFFECT — DURATION OF SUSPENSION, FEE. —

1. If the director determines that as a result of a verification sample or accident report that the owner of a motor vehicle has not maintained financial responsibility, or if the director determines as a result of an order of [court] supervision that the operator of a motor vehicle has not maintained the financial responsibility as required in this chapter, the director shall thirty-three days after mailing notice, suspend the driving privilege of the owner or operator and/or the registration of the vehicle failing to meet such requirement. The notice of suspension shall be mailed to the person at the last known address shown on the

department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing.

2. Neither the fact that subsequent to the date of verification or conviction, the owner acquired the required liability insurance policy nor the fact that the owner terminated ownership of the motor vehicle, shall have any bearing upon the director's decision to suspend. Until it is terminated, the suspension shall remain in force after the registration is renewed or a new registration is acquired for the motor vehicle. The suspension also shall apply to any motor vehicle to which the owner transfers the registration. Effective January 1, 2000, the department shall not extend any suspension for failure to pay a delinquent late surrender fee pursuant to this subsection.

[303.041. FAILURE TO MAINTAIN FINANCIAL RESPONSIBILITY — NOTICE, PROCEDURE, CONTENTS — SUSPENSION OF LICENSE AND REGISTRATION — REQUEST FOR HEARING, RIGHT, EFFECT — SUBSEQUENT ACQUISITION OF FINANCIAL RESPONSIBILITY, EFFECT — DURATION OF SUSPENSION, FEE. — 1. If the director determines that as a result of a verification sample or accident report that the owner of a motor vehicle has not maintained financial responsibility, or if the director determines as a result of an order of court supervision that the operator of a motor vehicle has not maintained the financial responsibility as required in this chapter, the director shall thirty-three days after mailing notice, suspend the driving privilege of the operator and/or the registration of the vehicle failing to meet such requirement. The notice of suspension shall be mailed to the person at the last known address shown on the department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing.

2. Neither the fact that subsequent to the date of verification or conviction, the owner acquired the required liability insurance policy nor the fact that the owner terminated ownership of the motor vehicle, shall have any bearing upon the director's decision to suspend. Until it is terminated, the suspension shall remain in force after the registration is renewed or a new registration is acquired for the motor vehicle. The suspension also shall apply to any motor vehicle to which the owner transfers the registration. Effective January 1, 2000, the department shall not extend any suspension for failure to pay a delinquent late surrender fee pursuant to this subsection.]

374.700. DEFINITIONS. — As used in sections 374.700 to 374.775, the following terms shall mean:

- (1) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed under the provisions of sections 374.700 to 374.775, is employed by and is working under the authority of a licensed general bail bond agent;
 - (2) "Department", the department of insurance of the state of Missouri;
 - (3) "Director", the director of the department of insurance;
 - (4) "General bail bond agent", a surety agent or a property bail bondsman, as defined in sections 374.700 to 374.775, who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his working time to the bail bond business in this state;
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(5) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

(6) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor;

(7) "Surety recovery agent", a person not performing the duties of a sworn peace officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a bail bond agreement, excluding a bail bond agent or general bail bond agent.

374.757. NOTIFICATION BY AGENT OF INTENTION TO APPREHEND — LOCAL LAW ENFORCEMENT MAY ACCOMPANY AGENT — VIOLATIONS, PENALTIES. — 1. Any agent licensed by sections 374.700 to 374.775 who intends to apprehend any person in this state shall inform law enforcement authorities in the city or county in which such agent intends such apprehension, before attempting such apprehension. Such agent shall present to the local law enforcement authorities a certified copy of the bond and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the agent. Failure of any agent to whom this section applies to comply with the provisions of this section shall be a class A misdemeanor for the first violation and a class D felony for subsequent violations; and shall also be a violation of section 374.755 and may in addition be punished pursuant to that section.

2. The surety recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law enforcement agency is a class D felony.

386.515. EXCLUSIVITY OF CIRCUIT COURT REVIEW PROCEDURE — REHEARING, PROCEDURE. — Prior to August 28, 2001, in proceedings before the Missouri public service commission, consistent with the decision of the supreme court of Missouri in *State ex rel. Anderson Motor Service Co., Inc. v. Public Service Commission*, 97 S.W.2d 116 (Mo. banc 1936) the review procedure provided for in section 386.510 is exclusive to any other procedure. An application for rehearing is required to be served on all parties and is a prerequisite to the filing of an application for writ of review. The application for rehearing puts the parties to the proceeding before the commission on notice that a writ of review can follow and any such review may proceed without formal notification or summons to said parties. On and after August 28, 2001, the review procedure provided for in section 386.510 continues to be exclusive except that a copy of any such writ of review shall be provided to each party to the proceeding before the commission, or his or her attorney of record, by hand delivery or by registered mail, and proof of such delivery or mailing shall be filed in the case as provided by subsection 2 of section 536.110, RSMo.

452.556. HANDBOOK, CONTENTS, AVAILABILITY. — 1. The state courts administrator shall create a handbook or be responsible for the approval of a handbook outlining the following:

- (1) What is included in a parenting plan;

- (2) The benefits of the parties agreeing to a parenting plan which outlines education, custody and cooperation between parents;
- (3) The benefits of alternative dispute resolution;
- (4) The pro se family access motion for enforcement of custody or temporary physical custody;
- (5) The underlying assumptions for supreme court rules relating to child support; and
- (6) A party's duties and responsibilities pursuant to section 452.377, including the possible consequences of not complying with section 452.377. The handbooks shall be distributed to each court and shall be available in an alternative format, including Braille, large print, or electronic or audio format upon request by a person with a disability, as defined by the federal Americans with Disabilities Act.

2. Each court shall mail a copy of the handbook developed pursuant to subsection 1 of this section to each party in a dissolution or legal separation action filed pursuant to section 452.310, or any proceeding in modification thereof, where minor children are involved, **or may provide the petitioner with a copy of the handbook at the time the petition is filed and direct that a copy of the handbook be served along with the petition and summons upon the respondent.**

3. The court shall make the handbook available to interested state agencies and members of the public.

455.040. HEARINGS, WHEN — DURATION OF ORDERS, RENEWAL, REQUIREMENTS — COPIES OF ORDERS TO BE GIVEN, VALIDITY — DUTIES OF LAW ENFORCEMENT AGENCY — INFORMATION MAY BE ENTERED IN MULES. — 1. Not later than fifteen days after the filing of a petition pursuant to sections 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of abuse or stalking by a preponderance of the evidence, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. If for good cause a hearing cannot be held on the motion to renew the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. Upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

2. The court shall cause a copy of the petition and notice of the date set for the hearing on such petition and any ex parte order of protection to be served upon the respondent as provided by law or by any sheriff or police officer at least three days prior to such hearing. Such notice shall be served at the earliest time, and service of such notice shall take priority over service in other actions, except those of a similar emergency nature. The court shall cause a copy of any full order of protection to be served upon or mailed by certified mail to the respondent at the respondent's last known address. Failure to serve or mail a copy of the full order of protection to the respondent shall not affect the validity or enforceability of a full order of protection.

3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system or any other comparable law enforcement system the same day the order is granted. The law

enforcement agency responsible for maintaining MULES shall enter information contained in the order for purposes of verification within twenty-four hours from the time the order is granted. A notice of expiration or of termination of any order of protection shall be issued to the local law enforcement agency and to the law enforcement agency responsible for maintaining MULES or any other comparable law enforcement system. The law enforcement agency responsible for maintaining the applicable law enforcement system shall enter such information in the system. **The information contained in an order of protection may be entered in the Missouri uniform law enforcement system or comparable law enforcement system using a direct automated data transfer from the court automated system to the law enforcement system.**

476.010. COURTS OF RECORD. — The supreme court of the state of Missouri, the court of appeals, [the circuit divisions of] **and** the circuit courts, [and any other division of the circuit courts keeping a record of the proceedings before the court,] shall be courts of record, and shall keep just and faithful records of their proceedings. Notwithstanding the foregoing, municipal divisions of the circuit courts shall not be considered courts of record, regardless of whether or not a verbatim record of proceedings before the [court] **division** is kept.

476.365. CERTIFICATION OF OFFICIAL COURT REPORTERS REQUIRED. — **1. No judge of any court in this state shall appoint an official court reporter who is not a court reporter certified by the board of certified court reporter examiners, as provided in Supreme Court Rule 14. In the absence of an official court reporter due to illness, physical incapacity, death, dismissal or resignation, a judge may appoint a temporary court reporter, but such temporary court reporter shall not serve more than six months without obtaining a certificate pursuant to the provisions of Supreme Court Rule 14.**

2. No testimony taken in this state by deposition shall be given in any court in this state, and no record on appeal from an administrative agency of this state shall include testimony taken in this state by deposition, unless the deposition is prepared and certified by a certified court reporter, except as provided in Supreme Court Rule 57.03(c).

3. Deposition testimony taken outside the state shall be deemed to be in conformity with this section if the testimony was prepared and certified by a court reporter authorized to prepare and certify deposition testimony in the jurisdiction in which the testimony was taken.

4. This section shall not apply to depositions taken in this state in connection with cases not pending in a Missouri state court or administrative agency at the time the deposition was taken.

478.610. CIRCUIT NO. 13, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED — ADDITIONAL ASSOCIATE CIRCUIT JUDGE FOR BOONE COUNTY, WHEN. — **1. There shall be three circuit judges in the thirteenth judicial circuit consisting of the counties of Boone and Callaway. These judges shall sit in divisions numbered one, two and three.**

2. The circuit judge in division two shall be elected in 1980. The circuit judges in divisions one and three shall be elected in 1982.

3. The authority for a majority of judges of the thirteenth judicial circuit to appoint or retain a commissioner pursuant to section 478.003 shall expire August 28, 2001. As of such date, there shall be one additional associate circuit judge position in Boone County than is provided pursuant to section 478.320.

479.020. MUNICIPAL JUDGES, SELECTION, TENURE, JURISDICTION, QUALIFICATIONS, COURSE OF INSTRUCTION. — **1. Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges consistent with the provisions of this chapter who shall have original**

jurisdiction to hear and determine all violations against the ordinances of the municipality. The method of selection of municipal judges shall be provided by charter or ordinance. Each municipal judge shall be selected for a term of not less than two years as provided by charter or ordinance.

2. Except where prohibited by charter or ordinance, the municipal judge may be a part-time judge and may serve as municipal judge in more than one municipality.

3. No person shall serve as a municipal judge of any municipality with a population of seven thousand five hundred or more or of any municipality in a county of the first class with a charter form of government unless the person is licensed to practice law in this state unless, prior to January 2, 1979, such person has served as municipal judge of that same municipality for at least [three] **two** years.

4. Notwithstanding any other statute, a municipal judge need not be a resident of the municipality or of the circuit in which the municipal judge serves except where ordinance or charter provides otherwise. Municipal judges shall be residents of Missouri.

5. Judges selected under the provisions of this section shall be municipal judges of the circuit court and shall be divisions of the circuit court of the circuit in which the municipality, or major geographical portion thereof, is located. The judges of these municipal divisions shall be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme court. The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of the municipal divisions within the circuit. Notwithstanding the foregoing provisions of this subsection, in any city with a population of over four hundred thousand with full-time municipal judges who are subject to a plan of merit selection and retention, such municipal judges and court personnel of the municipal divisions shall not be subject to court management and case docketing in the municipal divisions by the presiding judge or the rules of the circuit court of which the municipal divisions are a part.

6. No municipal judge shall hold any other office in the municipality which the municipal judge serves as judge. The compensation of any municipal judge and other court personnel shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

7. Municipal judges shall be at least twenty-one years of age. No person shall serve as municipal judge after that person has reached that person's seventy-fifth birthday.

8. Within six months after selection for the position, each municipal judge who is not licensed to practice law in this state shall satisfactorily complete the course of instruction for municipal judges prescribed by the supreme court. The state courts administrator shall certify to the supreme court the names of those judges who satisfactorily complete the prescribed course. If a municipal judge fails to complete satisfactorily the prescribed course within six months after the municipal judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal judge, nor shall any compensation thereafter be paid to such person for serving as municipal judge.

479.150. TRIAL BY JURY, CERTIFICATION FOR ASSIGNMENT — EXCEPTION, SPRINGFIELD MUNICIPAL COURT, WHEN, PROCEDURE, COSTS. — 1. In any municipality, whenever a defendant accused of a violation of a municipal ordinance has a right to a trial by jury and demands such trial by jury, except as provided in subsection 2 of this section, the municipal judge shall certify the case for assignment [in the manner provided in subsection 2 of section 517.520, RSMo].

2. Any municipality requiring by ordinance that the municipal judge be a licensed attorney and which has a population in excess of one hundred thousand persons which is located in a county of the first class not having a charter form of government and which does not adjoin another first class county may elect by passage of an appropriate municipal ordinance to hear jury cases before the municipal court; provided, such jury cases are heard in accordance with the following procedures:

(1) Cases shall be heard with a record being made as required in jury cases before the associate circuit court and the trial shall be conducted and the jury selected in accordance with procedures applicable before circuit courts;

(2) In any case tried with a jury in a municipal court under provisions of this subsection, appeals may be had upon the record to the appropriate state appellate court, and the record for appeal in such cases shall be prepared in accordance with the same rules prescribed by the supreme court for trials on the record before associate circuit courts;

(3) The costs of equipment or stenographic services for jury trials a municipality should elect to hold under this section shall be paid by the municipality, except where the supreme court has by rule provided for reimbursement by the defendant for the cost of transcription, and any person who requests a jury trial shall be responsible for all costs incurred in the securing of a jury if such person thereafter waives his right to a jury trial;

(4) The failure to request a jury trial while the case is pending before the municipal court shall be deemed a waiver of the right to a jury trial and after such jury trial there shall be no right to a trial de novo in circuit court;

(5) If the municipal judge is disqualified, the rules for appointment of another municipal judge of the city to hear such cases shall apply; provided, however, that in the event there is no other municipal judge qualified to hear the case, the case shall be certified for assignment [in the manner provided in subsection 2 of section 517.520, RSMo].

482.330. RESTRICTIONS ON FILING OF CLAIMS — STATEMENT REQUIRED OF PLAINTIFF — COUNTERCLAIM NOT PROHIBITED — SUIT MAY BE BROUGHT, WHERE. — 1. No claim may be filed or prosecuted in small claims court by a party who:

(1) Is an assignee of the claim; or

(2) Has filed more than eight other claims in the Missouri small claims courts during the current calendar year. If the court finds that a party has filed [one] more [claim] **claims** than [is] **are** permitted by this section, the court [may dismiss the petition with prejudice. If the court finds that a party has filed two more claims than is permitted by this section, the court] shall dismiss [with] **the claim without** prejudice.

2. At the time of filing an action in small claims court, a plaintiff shall sign a statement that he is not the assignee of the claim sued on and that he has not filed more than [ten] **eight** other claims in the Missouri small claims courts during the current calendar year.

3. Nothing in this section shall prohibit the filing or prosecution of a counterclaim growing out of the same transaction or occurrence.

4. No claim may be filed in a small claims court unless:

(1) At least one defendant is a resident of the county in which the court is located or at least one of the plaintiffs is a resident of the county in which the court is located and at least one defendant may be found in said county; or

(2) The facts giving rise to the cause of action took place within the county in which the court is located.

483.500. FEES OF THE CLERKS OF THE SUPREME COURT AND COURT OF APPEALS — COLLECTION. — 1. [Clerks of the supreme court and court of appeals shall severally be allowed and paid by the] **An** appellant or plaintiff in error **shall pay** court costs in an amount determined pursuant to [section 514.015] **sections 488.010 to 488.020**, RSMo; provided, that nothing herein shall be construed to apply to proceedings when costs are waived or are to be paid by the state, county or municipality.

2. [If the judgment of the supreme court or court of appeals is in favor of the appellant or plaintiff in error, the clerks shall assess the fee provided herein in favor of the appellant or plaintiff in error which may be collected in the manner provided by section 514.460, RSMo.

3. Such clerks] **The clerk of the court in which the notice of appeal is initially filed** shall collect **and disburse** court costs [for other services in such amounts as are] determined pursuant

to [section 514.015] **this section in the manner provided by sections 488.010 to 488.020, RSMo, and such court costs shall be payable to the director of revenue for deposit to the general revenue fund.**

488.426. DEPOSIT REQUIRED IN CIVIL ACTIONS — EXEMPTIONS — SURCHARGE TO REMAIN IN EFFECT. — 1. The judges of the circuit court, en banc, in any circuit in this state[, by rule of court adopted prior to January 1, 1997,] may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge [in the amount of not to exceed fifteen dollars] in addition to all other deposits required by law or court rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

2. The surcharge in effect on August 28, 2001, shall remain in effect until changed by the circuit court. The circuit court in any circuit, except the circuit court in Jackson County may change the fee to any amount not to exceed fifteen dollars. The circuit court in Jackson County may change the fee to any amount not to exceed twenty dollars. A change in the fee shall become effective and remain in effect until further changed beginning on January first if the office of state courts administrator is notified of the proposed change not later than the preceding September first.

3. Sections 488.426 to 488.432 shall not apply to proceeding when costs are waived or are paid by the county or state or any city.

488.429. FUND PAID TO TREASURER DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY. — Moneys collected pursuant to section 488.426 shall be payable to the [circuit judge or] judges of the circuit court, **en banc**, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the [circuit judge or] judges of the circuit court, **en banc**, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the [circuit judge or] judges of the circuit court, **en banc**, of any such county; provided, that the [judge or] judges of the circuit court, **en banc**, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

488.447. COURT RESTORATION FUND — SPECIAL SURCHARGE IN CIVIL CASES TO BE DEPOSITED IN FUND — EXEMPT CASES — EXPIRES WHEN. — 1. The circuit and associate circuit judges of the circuit court in any city not within a county shall require any party filing a civil case in the circuit court, at the time of filing suit, to deposit with the circuit clerk a surcharge in the amount of [thirty-five] **forty-five** dollars, in addition to all other court costs now or hereafter required by law or court rule, and no summons shall be issued until such surcharge has been paid. This section shall not apply to proceedings when costs are waived or paid by the state, county or municipality.

2. Such funds shall be payable to the treasury of any city not within a county to be credited to a courthouse restoration fund, which shall bear interest, to be used by any city not within a county only for the restoration, maintenance and upkeep of the courthouses; provided, that the courthouse restoration fund may be pledged to directly or indirectly secure bonds to fund such costs. All funds collected pursuant to this section before August 28, 1995, shall be credited to the courthouse restoration fund provided for in this section, to be used pursuant to the provisions of this section.

3. This section shall expire on August 28, 2033.

488.607. ADDITIONAL SURCHARGES AUTHORIZED FOR MUNICIPAL AND ASSOCIATE CIRCUIT COURTS FOR CITIES AND TOWNS HAVING SHELTERS FOR VICTIMS OF DOMESTIC

VIOLENCE, AMOUNT, EXCEPTIONS. — In addition to all other court costs for county or municipal ordinance violations, any county or any city having a shelter for victims of domestic violence established pursuant to sections 455.200 to 455.230, RSMo, or any municipality within a county which has such shelter, or any county or municipality whose residents are victims of domestic violence and are admitted to such shelters may, by order or ordinance [to be effective prior to January 1, 2000,] provide for an additional surcharge in the amount of two dollars per case for each criminal case [including] **and each** county or municipal ordinance violation case filed before a municipal division judge or associate circuit judge. No surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharges collected by municipal clerks in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, RSMo, or to employ judicial personnel pursuant to section 479.060, RSMo, shall be disbursed to the city at least monthly, and such surcharges collected by circuit court clerks shall be collected and disbursed as provided by sections 488.010 to 488.020. Such fees shall be payable to the city or county wherein such fees originated. The county or city shall use such moneys only for the purpose of providing operating expenses for shelters for battered persons as defined in sections 455.200 to 455.230, RSMo.

488.5332. SURCHARGE IN CRIMINAL CASES, WHEN, EXCEPTIONS — PAYMENT TO INDEPENDENT LIVING CENTER FUND. — In all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of [fifty cents] **one dollar**. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharge shall be collected and disbursed by the clerk of the court as provided by sections 488.010 to 488.020. Moneys collected from this surcharge shall be payable to the independent living center fund created in section 178.653, RSMo.

488.5336. COURT COSTS MAY BE INCREASED, AMOUNT, HOW, EXCEPTIONS, DEPOSIT — ADDITIONAL ASSESSMENT — USE OF FUNDS — AMOUNT OF REIMBURSEMENT. — 1. A surcharge of two dollars may be assessed as costs in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by the municipal government where the violation occurred. [Any such surcharge shall be authorized by the county or municipality and written notice given to the supreme court of such authorization prior to December first of the year preceding the state fiscal year during which such surcharge is to be collected and disbursed in the manner provided by sections 488.010 to 488.020.] If imposed by a municipality, such surcharges shall be collected by the clerk of the municipal court responsible for collecting court costs and fines and shall be transmitted monthly to the treasurer of the municipality where the violation occurred in cases of violations of municipal ordinances. If imposed by a county, such surcharges shall be collected and disbursed as provided in sections 488.010 to 488.020. Such surcharges shall be payable to the treasurer of the county where the violation occurred in the case of violations of the general criminal laws of the state or county ordinances. An additional surcharge in the amount of one dollar shall be assessed as provided in this section, and shall be collected and disbursed as provided in sections 488.010 to 488.020 and payable to the state treasury to the credit of the peace officer standards and training commission fund created in section 590.178, RSMo. Such surcharges shall be in addition to the

court costs and fees and limits on such court costs and fees established by section 66.110, RSMo, and section 479.260, RSMo.

2. Each county and municipality shall use all funds received under this section only to pay for the training required as provided in sections 590.100 to 590.180, RSMo, or for the training of county coroners and their deputies. No county or municipality shall retain more than one thousand five hundred dollars of such funds for each certified law enforcement officer, candidate for certification employed by that agency or a coroner and the coroner's deputies. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipality treasury which assessed the costs.

490.130. CERTIFIED RECORDS OF COURTS TO BE EVIDENCE. — The records of judicial proceedings of any court of the United States, or of any state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, and certified by the judge, chief justice or presiding associate circuit judge of the court to be attested in due form, shall have such faith and credit given to them in this state as they would have at the place whence the said records come. Copies from the record of proceedings of any court of this state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, or if there be no seal, with the private seal of the clerk, shall be received as evidence of the acts or proceedings of such court in any court of this state. Records of proceedings of any court of this state contained within any statewide court automated record-keeping system established by the supreme court shall be received as evidence of the acts or proceedings in any court of this state **without further certification of the clerk, provided that the location from which such records are obtained is disclosed to the opposing party.**

491.300. FEES OF INTERPRETERS. — 1. Interpreters and translators in civil and criminal cases shall be allowed a reasonable fee approved by the court.

2. Such fee shall be payable by the state in criminal cases from funds appropriated to the office of the state courts administrator **if the person requiring an interpreter or translator during the court proceeding is a party to or witness in the proceeding.**

508.190. PARTY APPLYING TO PAY COSTS, WHEN — PAID TO WHICH COUNTY — JURY SELECTION AND SERVICE COSTS PAID BY COUNTY IN WHICH CASE ORIGINATED. — 1. All the costs and expenses attending any such change of venue, made on the application of either party, shall be taxed against and paid by the petitioner, and shall not be taxed in the costs of the suit; provided, however, that when the change of venue is sought on the grounds of the prejudice of the inhabitants of the county, and the application is controverted by the opposing party, the costs incurred by the opposing party in hearing and determining said application shall be taxed against and paid by the losing party to said application.

2. All court costs paid or payable with respect to any civil case in which venue is transferred which are to be distributed to the county in which the case is filed, shall be paid to the county to which the case is transferred. If any such court costs have been paid by a party prior to the order changing venue, such costs shall be paid by the treasurer of the county in which the case was originally filed, to the county to which the case is transferred.

3. All expenses of whatever nature incurred by a county as a result of jury selection and service pursuant to the provisions of chapter 494, RSMo, shall be paid by the county in which the case was originally instituted to the county in which the case is actually tried, except when such case is transferred for improper venue.

512.180. APPEALS FROM CASES TRIED BEFORE ASSOCIATE CIRCUIT JUDGE. — 1. Any person aggrieved by a judgment in a civil case tried without a jury before an associate circuit judge, other than an associate circuit judge sitting in the probate division or who has been assigned to hear the case on the record under procedures applicable before circuit judges, shall

have the right of a trial de novo in all cases where the petition claims damages not to exceed [five] **three** thousand dollars.

2. In all other contested civil cases tried with or without a jury before an associate circuit judge or on assignment under such procedures applicable before circuit judges or in any misdemeanor case or county ordinance violation case a record shall be kept, and any person aggrieved by a judgment rendered in any such case may have an appeal upon that record to the appropriate appellate court. At the discretion of the judge, but in compliance with the rules of the supreme court, the record may be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

534.070. COMPLAINT AND SUMMONS — COURT DATE ASSIGNED, WHEN. — 1. When complaint to the circuit court of the proper county shall be made in writing, signed by the party aggrieved, his agent or attorney, and sworn to, specifying the lands, tenements or other possessions so forcibly entered and detained, or unlawfully detained, and by whom and when done, it shall be the duty of the [judge hearing such case] **clerk of the court** to issue [his] a summons [under his hand,] directed to the sheriff or proper officer of the county, commanding him to summon the person against whom the complaint shall have been made to appear, at a day in such summons to be specified.

2. A court date shall be assigned at the time the summons is issued. The court date shall be for a day certain which is not more than twenty-one business days from the date the summons is issued unless, at the time the case is filed, the plaintiff or plaintiff's attorney consents in writing to a later date.

535.030. SERVICE OF SUMMONS — COURT DATE INCLUDED IN SUMMONS. — 1. Such summons shall be served as in other civil cases at least four days before the court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued unless at the time of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

2. In addition to attempted personal service, the plaintiff may request, and thereupon the [judge, before whom the proceeding is commenced,] **clerk of the court** shall make an order directing that the officer, or other person empowered to execute the summons, shall also serve the same by securely affixing a copy of such summons and the complaint in a conspicuous place on the dwelling of the premises in question at least ten days before the court date in such summons, and by also mailing a copy of the summons and complaint to the defendant at the defendant's last known address by ordinary mail and by certified mail, return receipt requested, deliver to addressee only, at least ten days before the court date. If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure set forth in this section.

3. If the plaintiff does not request service of the original summons by posting and mailing as provided in subsection 2 of this section, and if the officer, or other person empowered to execute the summons, makes return that the defendant is not found, or that the defendant has absconded or vacated the defendant's usual place of abode in this state, the plaintiff may request the issuance of an alias summons and service of the same by posting and mailing in the time and manner provided in subsection 2 of this section. In addition, the plaintiff or an agent of the plaintiff who is at least eighteen years of age may serve the summons by posting and mailing a copy of the summons in the time and manner provided in subsection 2 of this section. Upon proof by affidavit of the posting and of the mailing of a copy of the summons or alias summons

and the complaint, the judge shall proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure provided in subsection 2 of this section.

4. On the date judgment is rendered as provided in this section where the defendant is in default, the **clerk of the court** shall mail to the defendant at the defendant's last known address by certified mail, with a request for return receipt and with directions to deliver to the addressee only, a notice informing the defendant of the judgment and the date it was entered, and stating that the defendant has ten days from the date of the judgment to file a motion to set aside the judgment or to file an application for a trial de novo in the circuit court, as the case may be, and that unless the judgment is set aside or an application for a trial de novo is filed within ten days, the judgment will become final and the defendant will be subject to eviction from the premises without further notice.

536.160. REFUND OF FUNDS PAID INTO COURT, WHEN. — In the event a reviewing court reverses a decision of a state agency, remands the matter to the agency for further proceedings and orders the payment into court of any increase in funds authorized by said decision, and thereafter, on remand, the state agency reaches the same result, reaffirms or ratifies its prior decision, then the entity which paid such funds into court shall be entitled to a refund of such funds, including all interest accrued thereon. This provision is enacted in part to clarify and specify the law in existence prior to August 28, 2001.

547.035. POSTCONVICTION DNA TESTING FOR PERSONS IN THE CUSTODY OF THE DEPARTMENT — MOTION, CONTENTS — PROCEDURE. — 1. A person in the custody of the department of corrections claiming that forensic DNA testing will demonstrate the person's innocence of the crime for which the person is in custody may file a post-conviction motion in the sentencing court seeking such testing. The procedure to be followed for such motions is governed by the rules of civil procedure insofar as applicable.

2. The motion must allege facts under oath demonstrating that:

(1) There is evidence upon which DNA testing can be conducted; and

(2) The evidence was secured in relation to the crime; and

(3) The evidence was not previously tested by the movant because:

(a) The technology for the testing was not reasonably available to the movant at the time of the trial;

(b) Neither the movant nor his or her trial counsel was aware of the existence of the evidence at the time of trial; or

(c) The evidence was otherwise unavailable to both the movant and movant's trial counsel at the time of trial; and

(4) Identity was an issue in the trial; and

(5) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained through the requested DNA testing.

3. Movant shall file the motion and two copies thereof with the clerk of the sentencing court. The clerk shall file the motion in the original criminal case and shall immediately deliver a copy of the motion to the prosecutor.

4. The court shall issue to the prosecutor an order to show cause why the motion should not be granted unless:

(1) It appears from the motion that the movant is not entitled to relief; or

(2) The court finds that the files and records of the case conclusively show that the movant is not entitled to relief.

5. Upon the issuance of the order to show cause, the clerk shall notify the court reporter to prepare and file the transcript of the trial or the movant's guilty plea and sentencing hearing if the transcript has not been prepared or filed.

6. If the court finds that the motion and the files and records of the case conclusively show that the movant is not entitled to relief, a hearing shall not be held. If a hearing is ordered, counsel shall be appointed to represent the movant if the movant is indigent. The hearing shall be on the record. Movant need not be present at the hearing. The court may order that testimony of the movant shall be received by deposition. The movant shall have the burden of proving the allegations of the motion by a preponderance of the evidence.

7. The court shall order appropriate testing if the court finds:

(1) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained through the requested DNA testing; and

(2) That movant is entitled to relief.

Such testing shall be conducted by a facility mutually agreed upon by the movant and by the state and approved by the court. If the parties are unable to agree, the court shall designate the testing facility. The court shall impose reasonable conditions on the testing to protect the state's interests in the integrity of the evidence and the testing process.

8. The court shall issue findings of fact and conclusions of law whether or not a hearing is held.

547.037. MOTION FOR RELEASE FILED, WHEN, PROCEDURE. — 1. If testing ordered pursuant to section 547.035 demonstrates a person's innocence of the crime for which the person is in custody, a motion for release may be filed in the sentencing court.

2. The court shall issue to the prosecutor an order to show cause why the motion should not be granted. The prosecutor shall file a response consenting to or opposing the motion.

3. If the prosecutor consents to the motion and if the court finds that such testing demonstrates the movant's innocence of the crime for which he or she is in custody, the court shall order the movant's release from the sentence for the crime for which testing occurred.

4. If the prosecutor files a response opposing the movant's release, the court shall conduct a hearing. If a hearing is ordered, the public defender shall be appointed to represent the movant if the movant is indigent. The hearing shall be on the record. The movant shall have the burden of proving the allegations of the motion by a preponderance of the evidence.

5. If the court finds that the testing ordered pursuant to section 547.035, demonstrates the movant's innocence of the crime for which he or she is in custody, the court shall order the movant's release from the sentence for the crime for which the testing occurred. Otherwise, relief shall be denied the movant.

6. The court shall issue findings of fact and conclusions of law whether or not a hearing is held. An appeal may be taken from the court's findings and conclusions as in other civil cases.

550.120. COSTS IN CHANGE OF VENUE — COSTS DEFINED. — 1. In any criminal [cause] or civil case in which a change of venue is taken from one county to any other county, [for any of the causes mentioned in existing laws,] and whenever a prisoner shall, for any cause, be confined in the jail of one county, such costs shall be paid by the county in which the case, indictment or information was originally instituted **to the county in which the case is actually tried or where the prisoner is confined, except when such case is transferred for improper venue.** In all cases where fines are imposed upon conviction under such indictments or prosecutions, or penalties or forfeitures of penal bonds in criminal cases, are collected, by civil action or otherwise, payable to the county, such fines, penalties and forfeitures shall be paid into the treasury of the county where such indictment or information was originally found or such prosecution originally instituted, for the benefit of the public school fund of the county.

2. The term "costs" as used in this section means:

(1) All items, services and other matters defined as costs under any other provisions of law relating to criminal **or civil** procedures;

(2) All moneys expended as salaries of persons directly related to the care of **criminal** defendants, security of the court, security of the jury and the room and board thereof, transportation of the jury, security and room and board of witnesses, and the processing of the cause, **paid or** payable out of the county treasury to which venue has been changed;

(3) All expenses of whatever nature incurred by a county as the result of jury selection [under] **and service pursuant to** the provisions of [section 545.485] **chapter 494**, RSMo;

(4) Any other expense directly related to the trial and prosecution of such criminal charge found necessary by the trial judge hearing the case.

565.030. TRIAL PROCEDURE, FIRST DEGREE MURDER. — 1. Where murder in the first degree is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases with a single stage trial in which guilt and punishment are submitted together.

2. Where murder in the first degree is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than murder in the first degree in a count together with a count of murder in the first degree, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo.

3. If murder in the first degree is submitted and the death penalty was not waived but the trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. No further evidence shall be received. If the trier is a jury it shall be instructed on the law. The attorneys may then argue as in other criminal cases the issue of punishment, after which the trier shall assess and declare the punishment as in all other criminal cases.

4. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the murder victim and the impact of the crime upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

(1) **If the trier finds by a preponderance of the evidence that the defendant is mentally retarded; or**

(2) If the trier does not find beyond a reasonable doubt at least one of the statutory aggravating circumstances set out in subsection 2 of section 565.032; or

[(2) If the trier does not find that the evidence in aggravation of punishment, including but not limited to evidence supporting the statutory aggravating circumstances listed in subsection 2 of section 565.032, warrants imposing the death sentence; or]

(3) If the trier concludes that there is evidence in mitigation of punishment, including but not limited to evidence supporting the statutory mitigating circumstances listed in subsection 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment found by the trier; or

(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed. If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed before the case is submitted that if it is unable to decide or agree upon the punishment the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor or death. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for murder in the first degree.

5. Upon written agreement of the parties and with leave of the court, the issue of the defendant's mental retardation may be taken up by the court and decided prior to trial without prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in subsection 4 of this section.

6. As used in this section, the terms "mental retardation" or "mentally retarded" refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

7. The provisions of this section shall only govern offenses committed on or after August 28, 2001.

574.075. DRUNKENNESS OR DRINKING IN CERTAIN PLACES PROHIBITED — VIOLATION A MISDEMEANOR. — It shall be unlawful for any person in this state to enter any schoolhouse or church house in which there is an assemblage of people, met for a lawful purpose, or any courthouse, in a drunken or intoxicated and disorderly condition, or to drink or offer to drink any intoxicating liquors in the presence of such assembly of people, or in any courthouse within this state and any person or persons so doing shall be guilty of a misdemeanor; **unless, however, the circuit court has by local rule authorized law library associations to conduct social events after business hours in any courthouse.**

595.030. COMPENSATION, OUT-OF-POCKET LOSS REQUIREMENT, MAXIMUM AMOUNT FOR COUNSELING EXPENSES — AWARD, COMPUTATION — DEDUCTION — MEDICAL CARE, REQUIREMENTS — COUNSELING, REQUIREMENTS — MAXIMUM AWARD — JOINT CLAIMANTS, DISTRIBUTION — METHOD, TIMING OF PAYMENT DETERMINED BY DIVISION. —

1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred for medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars. [Fifty dollars shall be deducted from any award granted under sections 595.010 to 595.075, except that an award to a person sixty-five years of age or older is not subject to any deduction.]

2. No compensation shall be paid unless the division of workers' compensation finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the division of workers' compensation finds that the report to the police was delayed for good cause.

If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the division of family services personnel; or by any other member of the victim's family.

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

(1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

(4) Professional counselor licensed pursuant to chapter 337, RSMo.

5. Any compensation paid [under] **pursuant to** sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award [under] **pursuant to** sections 595.010 to 595.075 shall exceed [fifteen] **twenty-five** thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the division of workers' compensation among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation [under] **pursuant to** sections 595.010 to 595.075 shall be determined by the division.

595.035. AWARD STANDARDS TO BE ESTABLISHED — AMOUNT OF AWARD, FACTORS TO BE CONSIDERED — PURPOSE OF FUND, REDUCTION FOR OTHER COMPENSATION RECEIVED BY VICTIM, EXCEPTIONS — TIME LIMITATION. — 1. For the purpose of determining the amount of compensation payable pursuant to sections 595.010 to 595.075, the division of workers' compensation shall, insofar as practicable, formulate standards for the uniform application of sections 595.010 to 595.075, taking into consideration the provisions of sections 595.010 to 595.075, the rates and amounts of compensation payable for injuries and death [under] **pursuant to** other laws of this state and of the United States, excluding pain and suffering, and the availability of funds appropriated for the purpose of sections 595.010 to 595.075. All decisions of the division of workers' compensation on claims heard [under] **pursuant to** sections 595.010 to 595.075 shall be in writing, setting forth the name of the claimant, the amount of compensation and the reasons for the decision. The division of workers' compensation shall immediately notify the claimant in writing of the decision and shall forward to the state treasurer a certified copy of the decision and a warrant for the amount of the claim. The state treasurer, upon certification by the commissioner of administration, shall, if there are sufficient funds in the crime victims' compensation fund, pay to or on behalf of the claimant the amount determined by the division.

2. The crime victims' compensation fund is not a state health program and is not intended to be used as a primary payor to other health care assistance programs, but is a public, quasi-charitable fund whose fundamental purpose is to assist victims of violent crimes through a period of financial hardship, as a payor of last resort. Accordingly, any compensation paid

pursuant to sections 595.010 to 595.075 shall be reduced by the amount of any payments, benefits or awards received or to be received as a result of the injury or death:

- (1) From or on behalf of the offender;
- (2) Under private or public insurance programs, including champus, medicare, medicaid and other state or federal programs, **but not including any life insurance proceeds**; or
- (3) From any other public or private funds, including an award payable [under] **pursuant to the workers' compensation laws of this state.**

3. In determining the amount of compensation payable, the division of workers' compensation shall determine whether, because of the victim's consent, provocation, incitement or negligence, the victim contributed to the infliction of the victim's injury or death, and shall reduce the amount of the compensation or deny the claim altogether, in accordance with such determination; provided, however, that the division of workers' compensation may disregard the responsibility of the victim for his **or her** own injury where such responsibility was attributable to efforts by the victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his **or her** presence, or to apprehend a person who had committed a crime in his **or her** presence or had in fact committed a felony.

4. In determining the amount of compensation payable pursuant to sections 595.010 to 595.070, monthly social security disability or retirement benefits received by the victim shall not be considered by the division as a factor for reduction of benefits.

5. The division shall not be liable for payment of compensation for any out-of-pocket expenses incurred more than three years following the date of the occurrence of the crime upon which the claim is based.

595.045. FUNDING — COSTS FOR CERTAIN VIOLATIONS, AMOUNT, DISTRIBUTION OF FUNDS, AUDIT — JUDGMENTS IN CERTAIN CRIMINAL CASES, AMOUNT — FAILURE TO PAY, EFFECT, NOTICE — COURT COST DEDUCTED — INSUFFICIENT FUNDS TO PAY CLAIMS, PROCEDURE — INTEREST EARNED, DISPOSITION — CONTINGENT EXPIRATION DATE FOR CERTAIN SUBSECTIONS. — 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of [five] **seven dollars and fifty cents** shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of [five] **seven dollars and fifty cents** shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

[3.] 4. The remaining funds collected under subsection 1 of this section **shall be denoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification**

system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

[4.] **5.** The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the division of workers' compensation and the department of public safety, respectively.

[5.] **6.** The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

[6.] **7.** These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

[7.] **8.** In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars if the conviction is for a class A or B felony; forty-six dollars if the conviction is for a class C or D felony; and ten dollars if the conviction is for any misdemeanor under the following Missouri laws:

- (1) Chapter 195, RSMo, relating to drug regulations;
- (2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;
- (3) Chapter 491, RSMo, relating to witnesses;
- (4) Chapter 565, RSMo, relating to offenses against the person;
- (5) Chapter 566, RSMo, relating to sexual offenses;
- (6) Chapter 567, RSMo, relating to prostitution;
- (7) Chapter 568, RSMo, relating to offenses against the family;
- (8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;
- (9) Chapter 570, RSMo, relating to stealing and related offenses;
- (10) Chapter 571, RSMo, relating to weapons offenses;
- (11) Chapter 572, RSMo, relating to gambling;
- (12) Chapter 573, RSMo, relating to pornography and related offenses;
- (13) Chapter 574, RSMo, relating to offenses against public order;
- (14) Chapter 575, RSMo, relating to offenses against the administration of justice;
- (15) Chapter 577, RSMo, relating to public safety offenses.

Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

[8.] **9.** The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

[9.] **10.** The clerks of the court shall report all delinquent payments to the department of revenue by October first of each year for the preceding fiscal year, and such sums may be withheld pursuant to subsection [14] **15** of this section.

[10.] **11.** The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection [17] **18** of this section and shall maintain separate records of collection for alcohol-related offenses.

[11.] **12.** Notwithstanding any other provision of law to the contrary, the provisions of subsections [8 and 9] **9 and 10** of this section shall expire and be of no force and effect upon the effective date of the supreme court rule adopted pursuant to sections 488.010 to 488.020, RSMo.

[12.] **13.** The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

[13.] **14.** All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims'

compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

[14.] **15.** When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

[15.] **16.** All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

[16.] **17.** Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

[17.] **18.** Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines.

610.105. EFFECT OF NOLLE PROS — DISMISSAL — SENTENCE SUSPENDED ON RECORD — NOT GUILTY DUE TO MENTAL DISEASE OR DEFECT, EFFECT. — If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated [except that the disposition portion of the record may be accessed and] except as provided in section 610.120 **and except that the court's judgment or order or the final action taken by the prosecutor in such matters may be accessed.** If the accused is found not guilty due to mental disease or defect pursuant to section 552.030, RSMo, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child-care agencies, facilities as defined in section 198.006, RSMo, and in-home services provider agencies as defined in section 660.250, RSMo, in the manner established by section 610.120.

632.480. DEFINITIONS. — As used in sections 632.480 to 632.513, the following terms mean:

(1) "Agency with jurisdiction", the department of corrections or the department of mental health;

(2) "Mental abnormality", a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others;

(3) "Predatory", acts directed towards [strangers or individuals with whom relationships have been established or promoted] **individuals, including family members**, for the primary purpose of victimization;

(4) "Sexually violent offense", the felonies of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes, or child molestation in the first or second degree, sexual abuse, sexual assault, deviate sexual assault, or the act of abuse of a child as defined in subdivision (1) of subsection 1 of section 568.060, RSMo, which involves sexual contact, and as defined in subdivision (2) of subsection 1 of section 568.060, RSMo;

(5) "Sexually violent predator", any person who suffers from a mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence if not confined in a secure facility and who:

(a) Has pled guilty or been found guilty, or been found not guilty by reason of mental disease or defect pursuant to section 552.030, RSMo, of a sexually violent offense; or

(b) Has been committed as a criminal sexual psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

632.483. NOTICE TO ATTORNEY GENERAL, WHEN — CONTENTS OF NOTICE — IMMUNITY FROM LIABILITY, WHEN — MULTIDISCIPLINARY TEAM ESTABLISHED — PROSECUTORS' REVIEW COMMITTEE ESTABLISHED. — 1. When it appears that a person may meet the criteria of a sexually violent predator, the agency with jurisdiction shall give written notice of such to the attorney general and the multidisciplinary team established in subsection 4 of this section. Written notice shall be given:

(1) Within [one] **three** hundred [eighty] **sixty** days prior to the anticipated release from a correctional center of the department of corrections of a person who has been convicted of a sexually violent offense, except that in the case of persons who are returned to prison for no more than one hundred eighty days as a result of revocation of postrelease supervision, written notice shall be given as soon as practicable following the person's readmission to prison;

(2) At any time prior to the release of a person who has been found not guilty by reason of mental disease or defect of a sexually violent offense; or

(3) At any time prior to the release of a person who was committed as a criminal sexual psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

2. The agency with jurisdiction shall inform the attorney general and the multidisciplinary team established in subsection 4 of this section of the following:

(1) The person's name, identifying factors, anticipated future residence and offense history; and

(2) Documentation of institutional adjustment and any treatment received or refused, including the Missouri sexual offender program.

3. The agency with jurisdiction, its employees, officials, members of the multidisciplinary team established in subsection 4 of this section, members of the prosecutor's review committee appointed as provided in subsection 5 of this section and individuals contracting or appointed to perform services hereunder shall be immune from liability for any conduct performed in good faith and without gross negligence pursuant to the provisions of sections 632.480 to 632.513.

4. The director of the department of mental health and the director of the department of corrections shall establish a multidisciplinary team consisting of no more than seven members, at least one from the department of corrections and the department of health, and which may include individuals from other state agencies to review available records of each person referred to such team pursuant to subsection 1 of this section. The team, within thirty days of receiving

notice, shall assess whether or not the person meets the definition of a sexually violent predator. The team shall notify the attorney general of its assessment.

5. [Effective January 1, 2000,] The prosecutors coordinators training council established pursuant to section 56.760, RSMo, shall appoint a five-member prosecutor's review committee composed of a cross section of county prosecutors from urban and rural counties. No more than three shall be from urban counties, and one member shall be the prosecuting attorney of the county in which the person was convicted or committed pursuant to chapter 552, RSMo. The committee shall review the records of each person referred to the attorney general pursuant to subsection 1 of this section. The prosecutor's review committee shall make a determination of whether or not the person meets the definition of a sexually violent predator. The determination of the prosecutors' review committee or any member pursuant to this section or section 632.484 shall not be admissible evidence in any proceeding to prove whether or not the person is a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the attorney general and the prosecutor's review committee.

632.492. TRIAL — PROCEDURE — ASSISTANCE OF COUNSEL, RIGHT TO JURY, WHEN.

— Within sixty days after the completion of any examination held pursuant to section 632.489, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. At all stages of the proceedings pursuant to sections 632.480 to 632.513, any person subject to sections 632.480 to 632.513 shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist such person. The person, the attorney general, or the judge shall have the right to demand that the trial be before a jury. **If the trial is held before a jury, the judge shall instruct the jury that if it finds that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment.** If no demand for a jury is made, the trial shall be before the court. **The court shall conduct all trials pursuant to this section in open court, except as otherwise provided for by the child victim witness protection law pursuant to sections 491.675 to 491.705, RSMo.**

632.495. UNANIMOUS VERDICT REQUIRED — OFFENDER COMMITTED TO CUSTODY OF DEPARTMENT OF MENTAL HEALTH, WHEN — RELEASE, WHEN — MISTRIAL PROCEDURES.

— The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by a jury, such determination shall be by unanimous verdict of such jury. [Such] **Any determination as to whether a person is a sexually violent predator** may be appealed. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large. Such control, care and treatment shall be provided by the department of mental health. At all times, persons committed for control, care and treatment by the department of mental health pursuant to sections 632.480 to 632.513 shall be kept in a secure facility designated by the director of the department of mental health and such persons shall be segregated at all times from any other patient under the supervision of the director of the department of mental health. The department of mental health shall not place or house an offender determined to be a sexually violent predator, pursuant to sections 632.480 to 632.513, with other mental health patients who have not been determined to be sexually violent predators. The department of mental health is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the confinement of the department of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the department of corrections, and except for occasional instances of

supervised incidental contact, shall be segregated from such offenders. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct the person's release. Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in section 632.492.

650.300. DEFINITIONS. — As used in sections 650.300 to 650.310, the following terms shall mean:

- (1) "Catastrophic crime", a violation of section 569.070, RSMo;
- (2) "Office", the office for victims of crime;
- (3) "Private agency", a private agency as defined in section 595.010, RSMo;
- (4) "Public agency", a public agency as defined in section 595.010, RSMo;
- (5) "Victim of crime", a person afforded rights as a victim or entitled to compensation or services as a victim pursuant to chapter 595, RSMo.

650.310. OFFICE OF VICTIMS OF CRIME ESTABLISHED, PURPOSE — DUTIES. — 1. The office of victims of crime is hereby established within the department of public safety, for the purpose of promoting the fair and just treatment of victims of crime. The office shall coordinate and promote the state's program for victims of crime and shall provide channels of communication among public and private agencies and in exercising the rights afforded to victims of crime pursuant to chapter 595, RSMo, and the Missouri Constitution. In the event of a catastrophic crime the office shall, or upon the receipt of a specific request the office may, work closely with other state and local agencies to coordinate a response to meet the needs of any resulting victims of crime.

2. The office for victims of crime shall coordinate efforts with statewide coalitions or organizations that are involved in efforts to provide assistance to victims of crime and to reduce the incidence of domestic violence, sexual assault or other crime victimization. The office shall consult with such coalitions or organizations as to more efficient and effective coordination and delivery of services to victims of crime.

3. The office for victims of crime shall assess and report to the governor the costs and benefits of establishing a statewide automated crime victim notification system within the criminal justice system and shall serve as the coordinating agency for the development, implementation and maintenance of any such system. If such system is established pursuant to this section, no other state agency shall provide such services.

4. The department of public safety may promulgate administrative rules to implement this section, and any such rule that is wholly procedural and without fiscal impact shall be deemed to satisfy the requirements of section 536.016, RSMo.

SECTION 1. EVIDENCE CAPABLE OF BEING TESTED FOR DNA MUST BE PRESERVED BY HIGHWAY PATROL. — Any evidence leading to a conviction of a felony described in subsection 1 of section 650.055, RSMo, which has been or can be tested for DNA shall be preserved by the Missouri state highway patrol.

SECTION 2. ADDITIONAL \$20 COURT COST IMPOSED, MUNICIPAL ORDINANCE VIOLATIONS — WAIVER, WHEN — COLLECTION (ST. LOUIS CITY). — 1. In addition to all other court costs for municipal ordinance violations, any city not within a county may provide for additional court costs in an amount up to twenty dollars per each case for each municipal ordinance violation case filed before a municipal division judge or associate circuit judge.

2. The judge may waive the assessment of the cost in those cases where the defendant is found by the judge to be indigent and unable to pay the cost.

3. Such cost shall be collected by the clerk and disbursed to the city at least monthly.

SECTION 3. ADDITIONAL \$5 COURT COST IMPOSED, MUNICIPAL ORDINANCE VIOLATIONS — WAIVER, WHEN — COLLECTION (ST. LOUIS CITY). — 1. In addition to all other court costs for municipal ordinance violations any city not within a county may provide for additional court costs in an amount up to five dollars per case for each municipal ordinance violation case filed before a municipal division judge or associate circuit judge.

2. The judge may waive the assessment of the cost in those cases where the defendant is found by the judge to be indigent and unable to pay the costs.

3. Such cost shall be collected by the clerk and disbursed to the city at least monthly. The city shall use such additional costs only for the restoration, maintenance and upkeep of the municipal courthouses. The costs collected may be pledged to directly or indirectly secure bonds for the cost of restoration, maintenance and upkeep of the courthouses.

[247.224. RESIDENTS MAY ELECT TO BE REMOVED FROM A PUBLIC WATER SUPPLY DISTRICT IF UNABLE TO RECEIVE SERVICES, PROCEDURE, LIABILITY FOR COSTS (FRANKLIN COUNTY). — Any person who resides within the boundary of a public water supply district located in any county of the first classification with a population of more than eighty thousand and less than eighty-three thousand inhabitants and who is unable to receive services from such district due to the district's failure to provide such services may elect to be removed from such district by sending a written and signed request for removal via certified mail to the district. The district shall, upon receipt of such request, remove such resident from the district. If the resident elects to be removed from the district, the resident shall compensate the district for any costs incurred by the district for such resident's removal from the district and for any attempts by the district to provide service to such resident prior to the certified date that the district received the request for removal.]

Approved July 2, 2001

SB 274 [CCS HCS SB 274]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows counties to contribute to County Employees' Retirement System.

AN ACT to repeal sections 50.1000, 50.1010, 50.1230 and 50.1250, RSMo 2000, relating to certain county employees' retirement systems, and to enact in lieu thereof four new sections relating to the same subject, with an effective date for certain sections.

SECTION

- A. Enacting clause.
- 50.1000. Definitions.
- 50.1010. Fund authorized, management — apportionment of benefits.
- 50.1230. Matching contributions by board, when, rules — matching contributions by county, when.
- 50.1250. Forfeiture of contributions, when — reversion of forfeitures — distribution of contribution account, when — death of a member, effect of.
- B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 50.1000, 50.1010, 50.1230 and 50.1250, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 50.1000, 50.1010, 50.1230 and 50.1250, to read as follows:

50.1000. DEFINITIONS. — As used in sections 50.1000 to 50.1300, the following words and terms mean:

- (1) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, the provisions of sections 50.1000 to 50.1300;
- (2) "Average final compensation", the monthly average of the two highest years of annual compensation received by the member;
- (3) "Board of directors" or "board", the board of directors established by the provisions of sections 50.1000 to 50.1300;
- (4) "Compensation", all salary and other compensation payable to a county employee for personal services rendered as a county employee, but not including travel and mileage reimbursement, and not including compensation in excess of the limit imposed by 26 U.S.C. 401(a)(17);
- (5) "County", each county in the state, except any city not within a county and counties of the first classification with a charter form of government;
- (6) "Creditable service", a member's period of employment as an employee, including the member's prior service, except as provided in sections 50.1090 and 50.1140;
- (7) "Effective date of the establishment of the system", August 28, 1994, the date the retirement system was established;
- (8) "Employee", any county elective or appointive officer or employee who is hired and fired by the county [and] **or by the circuit court located in a county of the first classification without a charter form of government which is not participating in LAGERS**, whose work and responsibilities are directed and controlled by the county [and] **or by the circuit court located in a county of the first classification without a charter form of government which is not participating in LAGERS**, who is compensated directly from county funds, and whose position requires the actual performance of duties during not less than one thousand hours per year, except county prosecuting attorneys covered pursuant to sections 56.800 to 56.840, RSMo, circuit clerks and deputy circuit clerks covered under the Missouri state retirement system and county sheriffs covered pursuant to sections 57.949 to 57.997, RSMo, in each county of the state, except for any city not within a county and any county of the first classification having a charter form of government;
- (9) "LAGERS", the local government employees' retirement system presently codified at sections 70.600 to 70.755, RSMo;
- (10) "Primary Social Security amount", the old age insurance benefit pursuant to Section 202 of the Social Security Act (42 U.S.C. 402) payable to a member at age sixty-two. The primary Social Security amount shall be determined pursuant to the Social Security Act as in effect at the time the employee's normal annuity pursuant to section 50.1060 is determined. Such determination shall be at the time that creditable service ends without assuming any future increases in compensation, any future increases in the taxable wage base, any changes in the formulas used pursuant to the Social Security Act, or any future increases in the consumer price index. However, it shall be assumed that the employee will continue to receive compensation at the same rate as that received at the time the determination is being made, until the member reaches age sixty-two. Only compensation with respect to creditable service as a county employee shall be considered, and the first year of compensation as a county employee shall be regressed at three percent per year with respect to years prior to the period of creditable service;
- (11) "Prior service", service of a member rendered prior to August 28, 1994, the effective date of the establishment of the system;

(12) "Required beginning date", the April first of the calendar year following the later of the calendar year in which the member reaches age seventy and one-half, or the calendar year in which the member retires;

(13) "Retirement fund" or "fund", the funds held by the county employees' retirement system;

(14) "Retirement system" or "system", the county employees' retirement system authorized by the provisions of sections 50.1000 to 50.1300;

(15) "Target replacement ratio":

(a) Eighty percent, if a member's average final compensation is thirty thousand dollars or less;

(b) Seventy-seven percent, if a member's average final compensation is forty thousand dollars or less, but greater than thirty thousand dollars;

(c) Seventy-two percent, if a member's average final compensation is fifty thousand dollars or less, but greater than forty thousand dollars;

(d) Seventy percent, if a member's average final compensation is greater than fifty thousand dollars.

50.1010. FUND AUTHORIZED, MANAGEMENT — APPORTIONMENT OF BENEFITS. —

There is hereby authorized a "County Employees' Retirement Fund" which shall be under the management of a board of directors described in section 50.1030. The board of directors shall be responsible for the administration and the investment of the funds of such county employees' retirement fund. If insufficient funds are generated to provide the benefits payable pursuant to the provisions of sections 50.1000 to 50.1200, the board shall apportion the benefits according to the funds available. **Notwithstanding any provision of sections 50.1000 to 50.1200 to the contrary, an individual who is in a job classification that the retirement system finds not eligible for coverage under the retirement system as of September 1, 2001, shall not be considered an employee for purposes of coverage in the retirement system, unless adequate additional funds are provided for the costs associated with such coverage.**

50.1230. MATCHING CONTRIBUTIONS BY BOARD, WHEN, RULES — MATCHING CONTRIBUTIONS BY COUNTY, WHEN. — 1. The board, in its sole discretion, shall determine if it will make matching contributions for a calendar year and the aggregate amount of the contribution. Each member who makes contributions to the deferred compensation program described in section 50.1300 during the calendar year for which the contribution is made shall be eligible to receive an allocation of this contribution. Generally, the board shall allocate matching contributions pro rata, on the basis of a member's contributions to the deferred compensation program described in section 50.1300. However, the board shall follow these rules in making this allocation:

(1) **Board matching** contributions allocated to a member who is not a member of LAGERS shall not exceed the lesser of (i) three percent of such nonLAGERS member's compensation for the calendar year or (ii) fifty percent of such nonLAGERS member's contributions to the deferred compensation program described in section 50.1300;

(2) **Board matching** contributions allocated to a member who is a member of LAGERS shall not exceed the lesser of (i) one and one-half percent of such member's compensation for the calendar year or (ii) twenty-five percent of such member's contributions to the deferred compensation program described in section 50.1300;

(3) The board shall set a specific matching percentage for each calendar year. Unless otherwise provided in subdivision (1) of this section, the matching contribution allocated to a nonLAGERS member shall be such matching percentage, multiplied by the member's contributions to the deferred compensation program for the calendar year. Unless otherwise provided in subdivision (2) of this section, the **board** matching contribution allocated to a member who is also a LAGERS member shall be one-half of the matching percentage,

multiplied by the member's contributions to the deferred compensation program for the calendar year.

2. In addition to matching contributions made by the board pursuant to the aforementioned criteria, a county shall also be entitled to make matching contributions to defined contribution accounts of members employed by such county in accordance with the rules and regulations formulated and adopted by the board from time to time.

50.1250. FORFEITURE OF CONTRIBUTIONS, WHEN — REVERSION OF FORFEITURES — DISTRIBUTION OF CONTRIBUTION ACCOUNT, WHEN — DEATH OF A MEMBER, EFFECT OF. —

1. If a member has less than five years of creditable service upon termination of employment, the member shall forfeit the portion of his or her defined contribution account attributable to **board matching contributions or county** matching contributions pursuant to section 50.1230. The proceeds of such forfeiture shall be applied towards matching contributions made by the board for the calendar year in which the forfeiture occurs. If the board does not approve a matching contribution, then forfeitures shall revert to the county employees' retirement fund. **The proceeds of such forfeiture with respect to county matching contributions shall be applied toward matching contributions made by the respective county in accordance with rules prescribed by the board.**

2. A member shall be eligible to receive a distribution of the member's defined contribution account as soon as administratively feasible following termination of employment, or may choose to receive the account balance at a later time, but no later than his or her required beginning date. The member's account balance shall be paid in a single sum. The amount of the distribution shall be the amount determined as of the valuation date described in section 50.1240, if the member has at least five years of creditable service. If the member has less than five years of creditable service upon his or her termination of employment, then the amount of the distribution shall equal the portion of the member's defined contribution account attributable to the member's seed contributions pursuant to section 50.1220, if any, determined as of the valuation date.

3. If the member dies before receiving the member's account balance, the member's designated beneficiary shall receive the member's defined contribution account balance, as determined as of the immediately preceding valuation date, in a single sum. The member's beneficiary shall be his or her spouse, if married, or his or her estate, if not married, unless the member designates an alternative beneficiary in accordance with procedures established by the board.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 50.1230 and 50.1250 shall become effective January 1, 2002.

Approved July 6, 2001

SB 275 [SB 275]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the placement of a deaf or hearing-impaired notation on driver's licenses.

AN ACT to amend chapter 302, RSMo, by adding thereto one new section relating to hearing impaired drivers.

SECTION

A. Enacting clause.

302.174. Hearing impaired, driver's license special notation, definitions — rules authorized.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 302, RSMo, is amended by adding thereto one new section, to be known as section 302.174, to read as follows:

302.174. HEARING IMPAIRED, DRIVER'S LICENSE SPECIAL NOTATION, DEFINITIONS — RULES AUTHORIZED. — **1.** As used in this section, the following terms mean:

(1) "Deaf person", any person who, because of hearing loss, is not able to discriminate speech when spoken in a normal conversation tone regardless of the use of amplification devices;

(2) "Hearing impaired person", any person who, because of hearing loss, has a diminished capacity to discriminate speech when spoken in a normal conversational tone;

(3) "J88", a notation on a driver's license that indicates the person is a deaf or hearing impaired person who uses alternative communication.

2. Any resident of this state who is a deaf or hearing impaired person may apply to the department of revenue to have the notation "J88" placed on the person's driver's license. The department of revenue, by rule, may establish the cost and criteria for placement of the "J88" notation, such as requiring an applicant to submit certain medical proof of deafness or hearing impairment.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are non-severable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

Approved July 10, 2001

SB 288 [HS HCS SB 288]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises provisions of Chapter 351 relating to corporations.

AN ACT to repeal sections 28.681, 59.040, 59.041, 59.050, 59.090, 59.100, 59.130, 59.250, 59.255, 59.257, 59.260, 59.300, 347.189, 347.740, 351.120, 351.127, 351.220, 351.268, 351.410, 351.415, 351.430, 351.435, 351.440, 351.458, 351.478, 351.482, 355.023, 356.233, 359.653, 400.1-105, 400.1-201, 400.2-103, 400.2-210, 400.2-326, 400.2-401, 400.2-502, 400.2-716, 400.2A-103, 400.2A-303, 400.2A-307, 400.2A-309, 400.4-210, 400.7-503, 400.8-103, 400.8-106, 400.8-110, 400.8-301, 400.8-302, 400.8-510, 400.9-101, 400.9-102, 400.9-103, 400.9-104, 400.9-105, 400.9-106, 400.9-107, 400.9-108, 400.9-109, 400.9-110, 400.9-111, 400.9-112, 400.9-113, 400.9-114, 400.9-115, 400.9-116, 400.9-201, 400.9-202, 400.9-203, 400.9-204, 400.9-205, 400.9-206, 400.9-207, 400.9-208, 400.9-301, 400.9-302, 400.9-303, 400.9-304, 400.9-305, 400.9-306, 400.9-307, 400.9-308, 400.9-309,

400.9-310, 400.9-311, 400.9-312, 400.9-313, 400.9-314, 400.9-315, 400.9-316, 400.9-317, 400.9-318, 400.9-401, 400.9-402, 400.9-403, 400.9-404, 400.9-405, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-501, 400.9-502, 400.9-503, 400.9-504, 400.9-505, 400.9-506, 400.9-507, 400.9-508 and 417.018, RSMo 2000, relating to business procedures regulated by the secretary of state and related matters, and to enact in lieu thereof one hundred ninety-three new sections relating to the same subject, with an emergency clause.

SECTION

- A. Enacting clause.
- 28.681. Statements, documents or notices may be filed, transmitted and stored in an electronic format, exceptions — duplicates not required — personal signatures shall be satisfied by electronically transmitted identification, when.
- 28.681. Statements, documents or notices may be filed, transmitted and stored in an electronic format, exceptions — duplicates not required — personal signatures shall be satisfied by electronically transmitted identification, when.
- 59.005. Definitions.
- 59.041. Separation of offices of circuit clerk and recorder of deeds (certain second class counties).
- 59.042. Vote required to separate offices of circuit court clerk and recorder of deeds, when.
- 59.043. Circuit court clerk elected, when.
- 59.090. Circuit clerk to be ex officio recorder, exceptions (fourth class counties).
- 59.100. Bond.
- 59.130. Seal.
- 59.250. Accounting of fees collected — annual report — moneys collected property of county.
- 59.255. Marginal release of deeds of trust book kept, certain counties.
- 59.257. Deputy recorders — appointment — qualifications — certain counties.
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- 351.410. Merger procedure.
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- 400.002-502. Buyer's right to goods on seller's repudiation, failure to deliver, or insolvency.
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- 400.02A-103. Definitions and index of definitions.
- 400.02A-303. Alienability of party's interest under lease contract or of lessor's residual interest in goods — delegation of performance — transfer of rights.
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- 400.004-210. Security interest of collecting bank in items, accompanying documents and proceeds.
- 400.005-118. Security interest in a document.
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- 400.008-103. Rules for determining whether certain obligations and interests are securities or financial assets.

- 400.008-106. Control.
 - 400.008-110. Applicability; choice of law.
 - 400.008-301. Delivery.
 - 400.008-302. Rights of purchaser.
 - 400.008-510. Rights of purchaser of security entitlement from entitlement holder.
 - 400.009-101. Short title.
 - 400.009-102. Definitions and index of definitions.
 - 400.009-103. Purchase-money security interest — application of payments — burden of establishing.
 - 400.009-104. Control of deposit account.
 - 400.009-105. Control of electronic chattel paper.
 - 400.009-106. Control of investment property.
 - 400.009-107. Control of letter-of-credit-right.
 - 400.009-108. Sufficiency of description.
 - 400.009-109. Scope.
 - 400.009-110. Security interests arising under Article 2 or 2A.
 - 400.009-118. Additional fee collected by secretary of state.
 - 400.009-201. General effectiveness of security agreement.
 - 400.009-202. Title to collateral immaterial.
 - 400.009-203. Attachment and enforceability of security interest — proceeds — supporting obligations — formal requisites.
 - 400.009-204. After-acquired property — future advances.
 - 400.009-205. Use or disposition of collateral permissible.
 - 400.009-206. Security interest arising in purchase or delivery of financial asset.
 - 400.009-207. Rights and duties of secured party having possession or control of collateral.
 - 400.009-208. Additional duties of secured party having control of collateral.
 - 400.009-209. Duties of secured party if account of debtor has been notified of assignment.
 - 400.009-210. Request for accounting — request regarding list of collateral or statement of account.
 - 400.009-301. Law governing perfection and priority of security interests.
 - 400.009-302. Law governing perfection and priority of agricultural liens.
 - 400.009-303. Law governing perfection and priority of security interests in goods covered by certificate of title.
 - 400.009-304. Law governing perfection and priority of security interests in deposit accounts.
 - 400.009-305. Law governing perfection and priority of security interests in investment property.
 - 400.009-306. Law governing perfection and priority of security interests in letter-of-credit rights.
 - 400.009-307. Location of debtor.
 - 400.009-308. When security interests or agriculture lien is perfected — continuity of perfection.
 - 400.009-309. Security interest perfected upon attachment.
 - 400.009-310. When filing required to perfect security interest or agricultural lien — security interests and agricultural liens to which filing provisions do not apply.
 - 400.009-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.
 - 400.009-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money-perfection by permissive filing — temporary perfection without filing or transfer of possession.
 - 400.009-313. When possession by or delivery to secured party perfects security interest without filing.
 - 400.009-314. Perfection by control.
 - 400.009-315. Secured party's rights on disposition of collateral and in proceeds.
 - 400.009-316. Continued perfection of security interest following change in governing law.
 - 400.009-317. Interests that take priority over or take free of security interest or agricultural lien.
 - 400.009-318. No interest retained in right to payment that is sold — rights and title of seller of account or chattel paper with respect to creditors and purchasers.
 - 400.009-319. Rights and title of consignee with respect to creditors and purchasers.
 - 400.009-320. Buyer of goods.
 - 400.009-321. Licensee of general intangible and lessee of goods in ordinary course of business.
 - 400.009-322. Priorities among conflicting security interests in and agricultural liens on same collateral.
 - 400.009-323. Future advances.
 - 400.009-324. Priority of purchase — money security interests.
 - 400.009-325. Priority in security interests in transferred collateral.
 - 400.009-326. Priority of security interests created by new debtor.
 - 400.009-327. Priority of secured interests in deposit account.
 - 400.009-328. Priority in security interests in investment property.
 - 400.009-329. Priority of security interests in letter-of-credit right.
 - 400.009-330. Priority of purchaser of chattel paper or instrument.
 - 400.009-331. Priority of rights of purchasers of instruments, documents, and securities under other articles — priority of interests in financial assets and security entitlements under Article 8.
 - 400.009-332. Transfer of money — transfer of funds from deposit account.
 - 400.009-333. Priority of certain liens arising by operation of law.
 - 400.009-334. Priority of security interests in fixtures and crops.
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- 400.009-335. Accessions.
- 400.009-336. Commingled goods.
- 400.009-337. Priority of security interests in goods covered by certificate of title.
- 400.009-338. Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.
- 400.009-339. Priority subject to subordination.
- 400.009-340. Effectiveness of right of recoupment or set-off against deposit account.
- 400.009-341. Bank's rights and duties with respect to deposit account.
- 400.009-342. Bank's rights to refuse to enter into or disclose existence of control agreement.
- 400.009-401. Alienability of debtor's rights.
- 400.009-402. Secured party not obligated on contract of debtor or in tort.
- 400.009-403. Agreement not to assert defenses against assignee.
- 400.009-404. Rights acquired by assignee — claims and defenses against assignee.
- 400.009-405. Modification of assigned contract.
- 400.009-406. Discharge of account debtor — notification of assignment — identification and proof of assignment — restrictions on assignment of accounts, chattel paper, payment intangibles and promissory notes ineffective.
- 400.009-407. Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.
- 400.009-408. Restrictions on assignment of promissory notes, health care insurance receivables, and certain general intangibles ineffective.
- 400.009-409. Restrictions on assignment of letter-of-credit rights ineffective.
- 400.009-501. Filing office.
- 400.009-502. Contents of financing statement — record of mortgage as financing statement — time of filing financial statement.
- 400.009-503. Name of debtor and secured party.
- 400.009-504. Indication of collateral.
- 400.009-505. Filing and compliance with other statutes and treaties for consignments, leases, other bailments, and other transactions.
- 400.009-506. Effect of errors or omissions.
- 400.009-507. Effect of certain events on effectiveness of financing statement.
- 400.009-508. Effectiveness of financing statement if new debtor becomes bound by security agreement.
- 400.009-509. Persons entitled to file a record.
- 400.009-510. Effectiveness of filed record.
- 400.009-511. Secured party of record.
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- 400.009-515. Duration and effectiveness of financing statement — effect of lapsed financing statement.
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- 400.009-517. Effect of indexing errors.
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- 400.009-520. Acceptance and refusal to accept record.
- 400.009-521. Uniform form of written financing statement and amendment.
- 400.009-522. Maintenance and destruction of records.
- 400.009-523. Information from filing office — sale or license of records.
- 400.009-524. Delay by filing office.
- 400.009-525. Fees.
- 400.009-526. Filing office rules.
- 400.009-527. Duty to report.
- 400.009-601. Rights after default — judicial enforcement — consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.
- 400.009-602. Waiver of variance of rights and duties.
- 400.009-603. Agreement on standards concerning rights and duties.
- 400.009-604. Procedure if security agreement covers real property or fixtures.
- 400.009-605. Unknown debtor or secondary obligor.
- 400.009-606. Time of default for agricultural lien.
- 400.009-607. Collection and enforcement by secured party.
- 400.009-608. Application of proceeds of collection or enforcement — liability for deficiency and right to surplus.
- 400.009-609. Secured party's right to take possession after default.
- 400.009-610. Disposition of collateral after default.
- 400.009-611. Notification before disposition of collateral.
- 400.009-612. Timeliness of notification before disposition of collateral.
- 400.009-613. Contents and form of notification before disposition of collateral: general.
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- 400.009-615. Application of proceeds of disposition — liability for deficiency and right to surplus.
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 - 400.009-617. Rights of transferee of collateral.
 - 400.009-618. Rights and duties of certain secondary obligors.
 - 400.009-619. Transfer of record or legal title.
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 - 400.009-621. Notification of proposal to accept collateral.
 - 400.009-622. Effect of acceptance of collateral.
 - 400.009-623. Right to redeem collateral.
 - 400.009-624. Waiver.
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 - 400.009-626. Action in which deficiency or surplus is in issue.
 - 400.009-627. Determination of whether conduct was commercially reasonable.
 - 400.009-628. Nonliability and limitation on liability of secured party — liability of secondary obligor.
 - 400.009-629. Disposition ordered for noncompliance of secured party — termination date.
 - 400.009-701. Definition of this act.
 - 400.009-702. Savings clause.
 - 400.009-703. Security interest perfected before effective date.
 - 400.009-704. Security interest unperfected before effective date.
 - 400.009-705. Effectiveness of action taken before effective date.
 - 400.009-706. When initial financing statement suffices to continue effectiveness of financing statement.
 - 400.009-707. Amendment of pre-effective-date financing statement.
 - 400.009-708. Persons entitled to file initial financing statement or continuation statement.
 - 400.009-709. Priority.
 - 400.009-710. Local filing office to maintain former Article 9 records.
 - 417.018. Additional fee — expiration date.
 - 431.202. Employment covenants enforceable, when — reasonability presumption.
 - 1. Electronic facsimile filings for documents filed with secretary of state's office, rulemaking authority.
 - 59.040. Combination or separation of office — election — form of ballot (third class counties).
 - 59.050. Separation of offices of circuit clerk and county recorder, when — elections prior to becoming second class county.
 - 347.189. Requires filing property control affidavit in certain cities, including Kansas City.
 - 351.440. Merger or consolidation shall be effected, when.
 - 400.009-101. Short title.
 - 400.009-102. Definitions and index of definitions.
 - 400.009-103. Purchase-money security interest — application of payments — burden of establishing.
 - 400.009-104. Control of deposit account.
 - 400.009-105. Control of electronic chattel paper.
 - 400.009-106. Control of investment property.
 - 400.009-107. Control of letter-of-credit-right.
 - 400.009-108. Sufficiency of description.
 - 400.009-109. Scope.
 - 400.009-110. Security interests arising under Article 2 or 2A.
 - 400.009-111. Applicability of bulk transfer laws.
 - 400.009-112. Where collateral is not owned by debtor.
 - 400.009-113. Security interests arising under article on sales or under article on leases.
 - 400.009-114. Consignment, priority over other parties, when — notice to lienholder of sale.
 - 400.009-115. Investment property, definitions — perfection.
 - 400.009-116. Security interest arising in purchase or delivery of financial asset.
 - 400.009-201. General effectiveness of security agreement.
 - 400.009-202. Title to collateral immaterial.
 - 400.009-203. Attachment and enforceability of security interest — proceeds — supporting obligations — formal requisites.
 - 400.009-204. After-acquired property — future advances.
 - 400.009-205. Use or disposition of collateral permissible.
 - 400.009-206. Security interest arising in purchase or delivery of financial asset.
 - 400.009-207. Rights and duties of secured party having possession or control of collateral.
 - 400.009-208. Additional duties of secured party having control of collateral.
 - 400.009-301. Law governing perfection and priority of security interests.
 - 400.009-302. Law governing perfection and priority of agricultural liens.
 - 400.009-303. Law governing perfection and priority of security interests in goods covered by certificate of title.
 - 400.009-304. Law governing perfection and priority of security interests in deposit accounts.
 - 400.009-305. Law governing perfection and priority of security interests in investment property.
 - 400.009-306. Law governing perfection and priority of security interests in letter-of-credit rights.
 - 400.009-307. Location of debtor.
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- 400.009-308. When security interests or agriculture lien is perfected — continuity of perfection.
- 400.009-309. Security interest perfected upon attachment.
- 400.009-310. When filing required to perfect security interest or agricultural lien — security interests and agricultural liens to which filing provisions do not apply.
- 400.009-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.
- 400.009-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money-perfection by permissive filing — temporary perfection without filing or transfer of possession.
- 400.009-313. When possession by or delivery to secured party perfects security interest without filing.
- 400.009-314. Perfection by control.
- 400.009-315. Secured party's rights on disposition of collateral and in proceeds.
- 400.009-316. Continued perfection of security interest following change in governing law.
- 400.009-317. Interests that take priority over or take free of security interest or agricultural lien.
- 400.009-318. No interest retained in right to payment that is sold — rights and title of seller of account or chattel paper with respect to creditors and purchasers.
- 400.009-401. Alienability of debtor's rights.
- 400.009-402. Secured party not obligated on contract of debtor or in tort.
- 400.009-403. Agreement not to assert defenses against assignee.
- 400.009-404. Rights acquired by assignee — claims and defenses against assignee.
- 400.009-405. Modification of assigned contract.
- 400.009-406. Discharge of account debtor — notification of assignment — identification and proof of assignment — restrictions on assignment of accounts, chattel paper, payment intangibles and promissory notes ineffective.
- 400.009-407. Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.
- 400.009-408. Restrictions on assignment of promissory notes, health care insurance receivables, and certain general intangibles ineffective.
- 400.009-409. Restrictions on assignment of letter-of-credit rights ineffective.
- 400.009-501. Filing office.
- 400.009-502. Contents of financing statement — record of mortgage as financing statement — time of filing financial statement.
- 400.009-503. Name of debtor and secured party.
- 400.009-504. Indication of collateral.
- 400.009-505. Filing and compliance with other statutes and treaties for consignments, leases, other bailments, and other transactions.
- 400.009-506. Effect of errors or omissions.
- 400.009-507. Effect of certain events on effectiveness of financing statement.
- 400.009-508. Effectiveness of financing statement if new debtor becomes bound by security agreement.
 - B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 28.681, 59.040, 59.041, 59.050, 59.090, 59.100, 59.130, 59.250, 59.255, 59.257, 59.260, 59.300, 347.189, 347.740, 351.120, 351.127, 351.220, 351.268, 351.410, 351.415, 351.430, 351.435, 351.440, 351.458, 351.478, 351.482, 355.023, 356.233, 359.653, 400.1-105, 400.1-201, 400.2-103, 400.2-210, 400.2-326, 400.2-401, 400.2-502, 400.2-716, 400.2A-103, 400.2A-303, 400.2A-307, 400.2A-309, 400.4-210, 400.7-503, 400.8-103, 400.8-106, 400.8-110, 400.8-301, 400.8-302, 400.8-510, 400.9-101, 400.9-102, 400.9-103, 400.9-104, 400.9-105, 400.9-106, 400.9-107, 400.9-108, 400.9-109, 400.9-110, 400.9-111, 400.9-112, 400.9-113, 400.9-114, 400.9-115, 400.9-116, 400.9-201, 400.9-202, 400.9-203, 400.9-204, 400.9-205, 400.9-206, 400.9-207, 400.9-208, 400.9-301, 400.9-302, 400.9-303, 400.9-304, 400.9-305, 400.9-306, 400.9-307, 400.9-308, 400.9-309, 400.9-310, 400.9-311, 400.9-312, 400.9-313, 400.9-314, 400.9-315, 400.9-316, 400.9-317, 400.9-318, 400.9-401, 400.9-402, 400.9-403, 400.9-404, 400.9-405, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-501, 400.9-502, 400.9-503, 400.9-504, 400.9-505, 400.9-506, 400.9-507, 400.9-508 and 417.018, RSMo 2000, are repealed and one hundred ninety-three new sections enacted in lieu thereof, to be known as sections 28.681, 59.005, 59.041, 59.042, 59.043, 59.090, 59.100, 59.130, 59.250, 59.255, 59.257, 59.260, 59.300, 59.800, 347.048, 347.740, 351.120, 351.127, 351.220, 351.268, 351.410, 351.415, 351.430, 351.435, 351.458, 351.478, 351.482, 351.608, 355.023, 356.233, 359.653, 400.1-105, 400.1-201, 400.2-103, 400.2-210, 400.2-326, 400.2-401, 400.2-502, 400.2-716, 400.2A-103, 400.2A-303, 400.2A-307,

400.2A-309, 400.4-210, 400.5-118, 400.7-503, 400.8-103, 400.8-106, 400.8-110, 400.8-301, 400.8-302, 400.8-510, 400.9-101, 400.9-102, 400.9-103, 400.9-104, 400.9-105, 400.9-106, 400.9-107, 400.9-108, 400.9-109, 400.9-110, 400.9-118, 400.9-201, 400.9-202, 400.9-203, 400.9-204, 400.9-205, 400.9-206, 400.9-207, 400.9-208, 400.9-209, 400.9-210, 400.9-301, 400.9-302, 400.9-303, 400.9-304, 400.9-305, 400.9-306, 400.9-307, 400.9-308, 400.9-309, 400.9-310, 400.9-311, 400.9-312, 400.9-313, 400.9-314, 400.9-315, 400.9-316, 400.9-317, 400.9-318, 400.9-319, 400.9-320, 400.9-321, 400.9-322, 400.9-323, 400.9-324, 400.9-325, 400.9-326, 400.9-327, 400.9-328, 400.9-329, 400.9-330, 400.9-331, 400.9-332, 400.9-333, 400.9-334, 400.9-335, 400.9-336, 400.9-337, 400.9-338, 400.9-339, 400.9-340, 400.9-341, 400.9-342, 400.9-401, 400.9-402, 400.9-403, 400.9-404, 400.9-405, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-501, 400.9-502, 400.9-503, 400.9-504, 400.9-505, 400.9-506, 400.9-507, 400.9-508, 400.9-509, 400.9-510, 400.9-511, 400.9-512, 400.9-513, 400.9-514, 400.9-515, 400.9-516, 400.9-517, 400.9-518, 400.9-519, 400.9-520, 400.9-521, 400.9-522, 400.9-523, 400.9-524, 400.9-525, 400.9-526, 400.9-527, 400.9-601, 400.9-602, 400.9-603, 400.9-604, 400.9-605, 400.9-606, 400.9-607, 400.9-608, 400.9-609, 400.9-610, 400.9-611, 400.9-612, 400.9-613, 400.9-614, 400.9-615, 400.9-616, 400.9-617, 400.9-618, 400.9-619, 400.9-620, 400.9-621, 400.9-622, 400.9-623, 400.9-624, 400.9-625, 400.9-626, 400.9-627, 400.9-628, 400.9-629, 400.9-701, 400.9-702, 400.9-703, 400.9-704, 400.9-705, 400.9-706, 400.9-707, 400.9-708, 400.9-709, 400.9-710, 417.018, 431.202 and 1, to read as follows:

28.681. STATEMENTS, DOCUMENTS OR NOTICES MAY BE FILED, TRANSMITTED AND STORED IN AN ELECTRONIC FORMAT, EXCEPTIONS — DUPLICATES NOT REQUIRED — PERSONAL SIGNATURES SHALL BE SATISFIED BY ELECTRONICALLY TRANSMITTED IDENTIFICATION, WHEN. — 1. Any statement, document or notice required or permitted to be filed with or transmitted by the secretary of state, or any judicial decree requiring the filing of such document, except any document or judicial decree relating to his or her statutory or constitutional duties relating to elections, may be filed, transmitted, stored and maintained in an electronic format prescribed by the secretary of state. No statement, document or notice submitted or filed in an electronic format need be submitted or filed in duplicate. Nothing in this section shall require the secretary of state to accept or transmit any statement, document or notice in an electronic format.

2. Any statutory requirement that a statement, document or notice **filed with the secretary of state** be signed by any person shall be satisfied by an electronically transmitted **identification in a format prescribed by the secretary of state**. [signature that is:

- (1) Unique to the person using it;
- (2) Capable of verification;
- (3) Under the sole control of the person using it;
- (4) Linked to the document in such a manner that if the data is changed, the signature is invalidated; and
- (5) Intended by the party using it to have the same force and effect as the use of a manual signature.]

3. Any requirement that a statement, document or notice filed with the secretary of state be notarized may be satisfied by a properly authenticated [digital signature] **identification in a format prescribed by the secretary of state**. The execution of any statement, document or notice [with a digital signature] pursuant to this subsection constitutes an affirmation under penalty of perjury that the facts stated therein are true and that such person or persons are duly authorized to execute such statement, document or notice, or are otherwise required to file such statement, document or notice.

4. The secretary of state may promulgate rules pursuant to the provisions of Section 536.024, RSMo, to effectuate the provisions of this section.

[28.681. STATEMENTS, DOCUMENTS OR NOTICES MAY BE FILED, TRANSMITTED AND STORED IN AN ELECTRONIC FORMAT, EXCEPTIONS — DUPLICATES NOT REQUIRED — PERSONAL SIGNATURES SHALL BE SATISFIED BY ELECTRONICALLY TRANSMITTED SIGNATURE, WHEN. — 1. Any statement, document or notice, except any document or judicial decree relating to the secretary of state's statutory or constitutional duties regarding elections, required or permitted to be filed with or transmitted by the secretary of state, or any judicial decree requiring the filing of such document, may be filed, transmitted, stored and maintain in an electronic format prescribed by the secretary of state. No statement, document or notice submitted or filed in an electronic format need e submitted or filed in duplicate. Nothing in this section shall require the secretary of state to accept or transmit any statement, document or notice in an electronic format.

2. Any statutory requirement that a statement, document or notice be signed by any person shall be satisfied by an electronically transmitted signature that is:

- (1) Unique to the person using it;
- (2) Capable of verification;
- (3) Under the sole control of the person using it;
- (4) Linked to the document in such a manner that if the data are changed, the signature is invalidated; and
- (5) Intended by the party using it to have the same force and effect as the use of a manual signature.

3. Any requirement that a statement, document or notice filed with the secretary of state be notarized may be satisfied by a properly authenticated digital signature. The execution of any statement, document or notice with a digital signature pursuant to this subsection constitutes an affirmation under penalty of perjury that the facts stated therein are true and that such person or persons are duly authorized to execute such statement, document or notice or are otherwise required to file such statement, document or notice.]

59.005. DEFINITIONS. — As used in this chapter, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Document" or "instrument", any writing or drawing presented to the recorder of deeds for recording;
- (2) "File", "filed" or "filing", the act of delivering or transmitting a document to the recorder of deeds for recording into the official public record;
- (3) "Grantor" or "grantee", the names of the parties involved in the transaction used to create the recording index;
- (4) "Legal description", includes but is not limited to the lot or parts thereof, block, plat or replat number, plat book and page and the name of any recorded plat or a metes and bounds description with acreage, if stated in the description, or the quarter/quarter section, and the section, township and range of property, or any combination thereof. The address of the property shall not be accepted as legal description;
- (5) "Legible", all text, seals, drawings, signatures or other content within the document must be capable of producing a clear and readable image from record, regardless of the process used for recording;
- (6) "Page", any writing, printing or drawing printed on one side only covering all or part of the page, not larger than eight and one-half inches in width and eleven inches in height for pages other than a plat or survey;
- (7) "Record", "recorded" or "recording", the recording of a document into the official public record, regardless of the process used;
- (8) "Recorder of deeds", the separate recorder of deeds in those counties where separate from the circuit clerk and the circuit clerk and ex officio recorder of deeds in those counties where the offices are combined.

59.041. SEPARATION OF OFFICES OF CIRCUIT CLERK AND RECORDER OF DEEDS (CERTAIN SECOND CLASS COUNTIES). — **1.** Notwithstanding the provisions of this chapter or chapter 478, RSMo, or any other provision of law in conflict with the provisions of this section, in any county which becomes a county of the second class after September 28, 1987, and wherein the offices of circuit clerk and recorder of deeds are combined, such combination shall continue until the [voters] **governing body** of the county [authorize] **authorizes** the separation of the offices as provided in section [59.040] **59.042.**

2. Notwithstanding the provisions of this chapter or chapter 478, RSMo., or any other provision of law in conflict with the provisions of this section, in any county of the third classification without a township form of government and having a population of more than 27,600 but less than 28,600 and wherein the offices of the District I circuit clerk and recorder of deeds are combined, the circuit court shall appoint such circuit clerk ex officio recorder of deeds. The circuit court may recommend to the governing body of such county whether the combined offices of the District I circuit clerk and recorder of deeds should be separated pursuant to subsection 1 of section 59.042; provided however, that if the governing body of such county authorizes the separation of offices and notwithstanding the provisions of subsection 2 of section 59.042, the office of District I clerk of the circuit court shall remain appointed by the circuit court.

59.042. VOTE REQUIRED TO SEPARATE OFFICES OF CIRCUIT COURT CLERK AND RECORDER OF DEEDS, WHEN. — In any county where the offices of clerk of the circuit court and the recorder of deeds are combined, the governing body of said county, by public vote, may authorize the separation of the two offices. Thereafter, the recorder of deeds shall be elected pursuant to section 59.020.

59.043. CIRCUIT COURT CLERK ELECTED, WHEN. — In all counties where the recorder of deeds and the clerk of the circuit court are separated after December 31, 2003, in the next November general election, and every four years thereafter, the qualified voters of such county shall elect some suitable person as circuit court clerk who shall hold office for four years until a successor is elected, commissioned and qualified. Such person shall enter upon the duties of office on the first day of January next following the election.

59.090. CIRCUIT CLERK TO BE EX OFFICIO RECORDER, EXCEPTIONS (FOURTH CLASS COUNTIES). — **1.** In all counties of the fourth class, the clerks of the circuit court shall be ex officio recorder for their respective counties, **unless the governing body of such county has separated the two offices pursuant to sections 59.042 and 59.043.**

2. With respect to any county that elects to separate the offices of clerk of the circuit court and recorder of deeds, all references in statutes to the "circuit clerk ex officio recorder of deeds" shall be deemed, after the separation, to refer to either the circuit clerk or the recorder of deeds, as appropriate in the context of the reference.

59.100. BOND. — Every [clerk and every] recorder elected as provided in section 59.020, before entering upon the duties of the office as recorder, shall enter into bond to the state, in a sum set by the county commission of not less than one thousand dollars, with sufficient sureties, not less than two, to be approved by the commission, conditioned for the faithful performance of the duties enjoined on [him] **such person** by law as recorder, and for the delivering up of the records, books, papers, writings, seals, furniture and apparatus belonging to the office, whole, safe and undefaced, to such officer's successor.

59.130. SEAL. — [He] **Every recorder of deeds** shall have a seal of office, and shall have power to take the acknowledgment of proof of deeds and instruments of writing [, and to take

the relinquishments of dower of married women, and certify the same, under his seal of office, in all cases and in the same manner, with like effect, as clerks of circuit courts may do by law].

59.250. ACCOUNTING OF FEES COLLECTED — ANNUAL REPORT — MONEYS COLLECTED PROPERTY OF COUNTY. — 1. The recorder of deeds in counties [of the third class,] wherein there is a separate circuit clerk and recorder, shall keep a full, true and faithful account of all fees of every kind received. [He] **The recorder** shall make a report thereof each year to the county commission.

2. It shall be the duty of the recorder of deeds to charge, receive and collect in all cases every fee, charge or money due [his] **the recorder's** office by law. [He] **The recorder of deeds** shall also, when he **or she** makes and files the report [herein] required **by this section** at the end of each year of his **or her** official term, verify [the same] **such report** by affidavit, and the report shall show the source and amount of every fee or charge collected. All fees, charges and moneys collected by the recorder of deeds shall be the property of the county. **Every recorder of deeds shall be liable on his or her official bond for all fees collected and not accounted for by him or her and paid into the county treasury as provided by this section.**

59.255. MARGINAL RELEASE OF DEEDS OF TRUST BOOK KEPT, CERTAIN COUNTIES. — The recorder of deeds in each county [of the third class] wherein the offices of circuit clerk and recorder of deeds are separate and the circuit clerk and ex officio recorder of deeds in each county [of the fourth class and in each county of the third class] wherein the offices are combined shall keep in his **or her** office [a well-bound book to be] **a record** known as the "Marginal Release of Deeds of Trust" in which [he shall enter in appropriately ruled and headed columns] **was recorded**, at the time of the execution of a marginal release of a deed of trust, [the following items:] **executed prior to August 28, 1991**, the names of the grantors and grantees, the book and page of release, the date of release and to whom delivered.

59.257. DEPUTY RECORDERS — APPOINTMENT — QUALIFICATIONS — CERTAIN COUNTIES. — The recorder of deeds in counties [of the third class,] wherein there is a separate circuit clerk and recorder, is entitled to appoint the deputies that the recorder of deeds, with the approval of the county commission, deems necessary for the prompt and proper discharge of the duties of his office. The deputies shall possess the **same** qualifications [of clerks of courts of record] **as the recorder** and may, in the name of their principal, perform the duties of the recorder of deeds, but all recorders of deeds and their sureties are responsible for the official conduct of their deputies. The deputies appointed [as herein provided] **pursuant to this section** shall receive the salaries that are fixed by the recorder of deeds, with the approval of the county commission, from the general revenue of the county. The appointment of every deputy shall be in writing, endorsed with an oath of office similar to that taken by the recorder of deeds and subscribed to by the deputy appointed, and filed by the recorder with the county commission.

59.260. CIRCUIT CLERK TO COLLECT AND REPORT FEES AS RECORDER, WHEN. — It shall be the duty of the circuit clerk and recorder of counties [of the third class,] wherein the offices [shall have been] **are** combined, [and in all counties of the fourth class,] to charge and collect for the county in all cases every fee accruing to his **or her** office as recorder of the county to which he **or she** may be entitled under the law, and shall at the end of each month, file with the county clerk a report of all fees charged and accruing to his office during such month, together with the names of persons paying such fees. It shall be the duty of the circuit clerk and recorder, upon the filing of said report, to forthwith pay over to the county treasurer, all moneys that shall have been collected by him **or her** as recorder during the month and required to be shown in such monthly report as herein provided, taking duplicate receipts therefor, one of which shall be filed with the county clerk; and every such circuit clerk and recorder shall be liable on

his **or her** official bond for all fees collected and not accounted for by him **or her**, and paid into the county treasury as herein provided.

59.300. DEPUTIES, COUNTIES WHEREIN CLERK IS EX OFFICIO RECORDER — APPOINTMENT — QUALIFICATIONS. — The circuit clerk and recorder in counties [of the fourth class, and in counties of the third class] wherein the offices [shall have been] **are** combined, as recorder of the county, may appoint in writing one or more deputies, to be approved by the circuit judge of the circuit court, which appointment with the like oath of office as their principals, to be taken by them and endorsed thereon shall be filed in the office of the county clerk. Such deputy recorders shall possess the qualifications of clerks of courts of record, and may, in the name of their principals, perform the duties of recorders of deeds, but all circuit clerks and recorders and their sureties shall be responsible for the official conduct of their deputies.

59.800. ADDITIONAL FIVE-DOLLAR FEE IMPOSED, WHEN, DISTRIBUTION — FUND ESTABLISHED. — **1.** Beginning on the effective date of this act, notwithstanding any other condition precedent required by law to the recording of any instrument specified in subdivisions (1) and (2) of section 59.330, an additional fee of five dollars shall be charged and collected by every recorder of deeds in this state on each instrument recorded. The additional fee shall be distributed as follows:

(1) One dollar and twenty-five cents to the record's fund established pursuant to subsection 1 of section 59.319, provided, however, that all funds received pursuant to this section shall be used exclusively for the purchase, installation, upgrade and maintenance of modern technology necessary to operate the recorder's office in an efficient manner;

(2) One dollar and seventy-five cents to the county general revenue fund; and

(3) Two dollars to the fund established in subsection 2 of this section.

2. There is hereby established in the state treasury a revolving fund known as the "Statutory County Recorder's Fund", which shall receive funds paid to the recorders of deeds of the counties of this state pursuant to subdivision (3) of subsection 1 of this section. The state treasurer shall be custodian of the fund and shall make disbursements from the fund for the purpose of subsidizing the fees collected by counties that hereafter elect or have heretofore elected to separate the offices of clerk of the circuit court and recorder. The subsidy shall consist of the total amount of moneys collected pursuant to subdivisions (1) and (2) of subsection 1 of this section subtracted from fifty-five thousand dollars. The moneys paid to qualifying counties pursuant to this subsection shall be deposited in the county general revenue fund. For purposes of this section a "qualified county" is a county that hereafter elects or has heretofore elected to separate the offices of clerk of the circuit court and recorder and in which the office of the recorder of deeds collects less than fifty-five thousand dollars in fees pursuant to subdivisions (1) and (2) of subsection 1 of this section, on an annual basis.

3. Any unexpended balance in the fund at the end of any biennium is exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the general revenue fund.

347.048. AFFIDAVIT FILING REQUIRED FOR CERTAIN LIMITED LIABILITY COMPANIES. — Any limited liability company that owns and rents or leases real property, or owns unoccupied real property, located within any home rule city with a population of more than four hundred thousand inhabitants which is located in more than one county, shall file with that city's clerk an affidavit listing the name and address of at least one person, who has management control and responsibility for the real property owned and leased or rented by the limited liability company, or owned by the limited liability company and unoccupied.

347.740. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

351.120. ANNUAL REGISTRATION REQUIRED, WHEN. — Every corporation organized pursuant to the laws of this state, including corporations organized pursuant to or subject to this chapter, and every foreign corporation licensed to do business in this state, whether such license shall have been issued pursuant to this chapter or not, other than corporations exempted from taxation by the laws of this state, shall file an annual corporation registration report stating its corporate name, the name of its registered agent and such agent's Missouri address, giving street and number, or building and number, or both, as the case may require, the name and correct business or residence address of its officers and directors, and the mailing address of the corporation's principal place of business or corporate headquarters. The annual corporation registration report shall be due on the date that the corporation's franchise tax report is due as required in section 147.020, RSMo, or within thirty days of the date of incorporation of the corporation; but any extension of time for filing the franchise tax report shall not apply to the due date of the annual corporation registration report. Any corporation that is not required to file a franchise tax report shall still be required to file an annual corporation registration report. **In the event of any change in the names and addresses of the officers and directors set forth in an annual registration report following the required date of its filing and the date of the next such required report, the corporation may correct such information by filing a certificate of correction pursuant to section 351.049.**

351.127. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

351.220. PAYMENT OF DIVIDENDS ON SHARES OF STOCK. — The board of directors of a corporation may declare and the corporation may pay dividends on its [outstanding] shares in cash, property, or its own shares, subject to the following limitations and provisions:

(1) No dividend shall be declared or paid at a time when the net assets of the corporation are less than its stated capital or when the payment thereof would reduce the net assets of the corporation below its stated capital;

(2) If a dividend is declared out of the paid-in surplus of the corporation, whether created by reduction of stated capital or otherwise, the limitations contained in section 351.210 shall apply;

(3) If a dividend is declared payable in its own shares having a par value, such shares shall be issued at the par value thereof and there shall be transferred to stated capital at the time such dividend is declared an amount of surplus equal to the aggregate par value of the shares to be issued as a dividend;

(4) If a dividend is declared payable in its own shares, without par value, and such shares have a preferential right in the assets of the corporation in the event of its involuntary liquidation, such shares shall be issued at the liquidation value thereof, and there shall be transferred to stated capital at the time such dividend is declared, an amount of surplus equal to the aggregate preferential amount payable upon such shares in the event of involuntary liquidation;

(5) If a dividend is declared payable in its own shares without par value and none of such shares has a preferential right in the assets of the corporation in the event of its involuntary liquidation, such shares shall be issued at such value as shall be fixed by the board of directors

by resolution at the time such dividend is declared, and there shall be transferred to stated capital, at the time such dividend is declared, an amount of surplus equal to the aggregate value so fixed in respect of such shares, and the amount per share transferred to stated capital shall be disclosed to the shareholders receiving such dividends concurrently with payment thereof;

(6) A split-up or division of issued shares into a greater number of shares of the same class shall not be construed to be a share dividend within the meaning of this section;

(7) No dividend shall be declared or paid contrary to any restrictions contained in the articles of incorporation.

351.268. SHAREHOLDER'S MEETING, ADJOURNMENT DUE TO LACK OF QUORUM — POSTPONEMENT, ADJOURNMENT DEFINED. — 1. In addition to the provisions of sections 351.265 and 351.267 regarding the adjournment of shareholders meetings at which a quorum is not present, unless the bylaws provide to the contrary, a meeting may be otherwise successively adjourned to a specified date not longer than ninety days after such adjournment or to another place. Notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than ninety days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the date and place of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

2. A shareholder's meeting may be successively postponed by resolution of the board of directors, unless otherwise provided in the bylaws, to a specified date up to a date ninety days after such postponement or to another place, provided [public] notice **of the date and place of the postponed meeting, which may be by public notice, is given to each shareholder of record entitled to vote at the meeting** [of such postponement is given] prior to the date previously scheduled for such meeting. [Such notice shall state the new date and place of such postponed meeting.]

3. For purposes of this chapter, "adjournment" means a delay in the date, which may also be combined with a change in the place, of a meeting after the meeting has been convened; "postponement" means a delay in the date, which may be combined with a change in the place, of the meeting before it has been convened, but after the time and place thereof have been set forth in a notice delivered or given to shareholders; and public notice shall be deemed to have been given if a public announcement is made by press release reported by a national news service or in a publicly available document filed with the United States Securities and Exchange Commission.

351.410. MERGER PROCEDURE. — Any two or more domestic corporations may merge into one of the corporations in the following manner: The board of directors of each corporation shall approve a plan of merger and direct the submission of the plan to a vote at a meeting of shareholders. The plan of merger shall set forth:

(1) The names of the corporations proposing to merge, **which are herein designated as the "constituent corporations"**, and the name of the corporation into which they propose to merge, which is herein designated as "the surviving corporation";

(2) The terms and conditions of the proposed merger and the mode of carrying it into effect;

(3) The manner and basis of converting the shares of each merging corporation into cash, property, shares or other securities or obligations of the surviving corporation, or (if any shares of any merging corporation are not to be converted solely into cash, property, shares or other securities or obligations of the surviving corporation) into cash, property, shares or other securities or obligations of any other domestic or foreign corporation, which cash, property, shares or other securities or obligations of any other domestic or foreign corporation may be in

addition to or completely in lieu of cash, property, shares or other securities or obligations of the surviving corporation;

(4) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by the merger;

(5) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

351.415. CONSOLIDATION PROCEDURE. — Any two or more domestic corporations may consolidate into a new domestic corporation in the following manner: The board of directors of each corporation shall approve a plan of consolidation and direct the submission of the plan to a vote at a meeting of shareholders. The plan of consolidation shall set forth:

(1) The names of the corporations proposing to consolidate, **which are herein designated as the "constituent corporations"** and the name of the new corporation into which they propose to consolidate, which is herein designated as "the new corporation";

(2) The terms and conditions of the proposed consolidation and the mode of carrying it into effect;

(3) The manner and basis of converting the shares of each consolidating corporation into cash, property, shares, or other securities, or obligations of the new corporation, or (if any shares of any consolidating corporation are not to be converted solely into cash, property, shares or other securities or obligations of the new corporation) into cash, property, shares or other securities or obligations of any other domestic or foreign corporation, which cash, property, shares or other securities or obligations of any other domestic or foreign corporation may be in addition to or completely in lieu of cash, property, shares or other securities or obligations of the new corporation;

(4) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter;

(5) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

351.430. ARTICLES OF MERGER OR CONSOLIDATION, HOW EXECUTED — CONTENTS — SUMMARY ARTICLES PERMITTED, WHEN, CONTENTS. — **1.** Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice president, and verified by him, and the corporate seal of each corporation shall be thereto affixed, attested by its secretary or an assistant secretary, and shall set forth:

(1) The plan of merger or the plan of consolidation;

(2) As to each corporation, the number of shares outstanding;

(3) As to each corporation, the number of shares voted for and against such plan, respectively.

2. In lieu of the delivery of articles of merger or articles of consolidation as required pursuant to section 351.435, summary articles of merger or summary articles of consolidation, executed pursuant to section 351.046, may be filed pursuant to section 351.046 to be effective pursuant to section 351.048. Such summary articles shall state:

(1) The name and state of incorporation of each of the constituent corporations;

(2) That a plan of merger or consolidation has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations as required by this chapter;

(3) The name of the surviving corporation in the case of a merger or the new corporation in the case of a consolidation;

(4) In the case of a merger, such amendments or changes in the articles of the surviving corporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be the articles of incorporation;

(5) In the case of a consolidation, that the articles of incorporation of the new corporation shall be as set forth in an attachment to the summary articles;

(6) That the executed plan of merger or consolidation is on file at the principal place of business of the surviving corporation in the case of a merger, or new corporation in the case of a consolidation stating the address thereof; and

(7) That a copy of a plan of merger or consolidation will be furnished by the surviving corporation in the case of a merger or the new corporation in the case of a consolidation, on request and without cost, to any shareholder of any constituent corporation.

351.435. CERTAIN ORIGINALS OR COPIES OF ARTICLES TO BE DELIVERED TO SECRETARY OF STATE WHO SHALL ISSUE CERTIFICATE OF MERGER OR CONSOLIDATION. — Duplicate originals or the original and a copy of the articles of merger or articles of consolidation shall be delivered to the secretary of state **by the surviving corporation in the case of a merger or the new corporation in the case of a consolidation. The articles shall be executed pursuant to section 351.430, filed pursuant to section 351.046 and effective pursuant to section 351.048.** If the secretary of state finds that the articles conform to law, he shall, when all required taxes or fees have been paid, file the same, keeping the original as a permanent record, and issue a certificate of merger or a certificate of consolidation, to which he shall affix the copy of such articles.

351.458. MERGER OR CONSOLIDATION WITH FOREIGN CORPORATION — PROCEDURE. — 1. One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this chapter with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized;

(2) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with the provisions of this chapter with respect to foreign corporations if it is to do business in this state, and regardless of whether or not it is to do business in this state it shall file with the secretary of state of this state:

(a) An agreement that it will promptly pay to the dissenting shareholders of any domestic corporation which is a party to the merger or consolidation the amount, if any, to which they shall be entitled under provisions of this chapter with respect to the rights of dissenting shareholders, and

(b) An agreement that it may be served with process in this state, and an irrevocable appointment of the secretary of state of this state as its agent to accept service of process, in any proceeding based upon any cause of action against any such domestic corporation arising in this state prior to the issuance of the certificate of merger or the certificate of consolidation by the secretary of state of this state, and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation.

2. The effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations; except, if the surviving or new corporation is to be governed by the laws of any state other than this state, to the extent that the laws of the other state shall otherwise provide.

3. [If the surviving or new corporation is to be governed by the laws of any state other than this state, the secretary of state of this state may nevertheless in his discretion issue a certificate of merger or certificate of consolidation in the manner provided in section 351.435.]

4.] If the surviving or new corporation is a foreign corporation, the effective date of such merger or consolidation shall be the date on which the same becomes effective in the state of domicile of such surviving or new corporation and the provisions of section 351.440 shall not apply. **A document from the state of the domicile of the surviving corporation in the case of a merger, or the new corporation in the case of a consolidation, certifying that the merger or consolidation has become effective in such state shall be a requirement for the merger or consolidation becoming effective in this state.**

351.478. KNOWN CLAIMS AGAINST DISSOLVED CORPORATION. — 1. After dissolution is authorized **pursuant to sections 351.462, 351.464 or 351.466, or it has been dissolved pursuant to section 351.486**, a corporation shall dispose of the known claims against it by following the procedure described in this section.

2. The corporation shall notify its known claimants in writing by United States Postal Service of the dissolution at any time after dissolution is authorized. The written notice must:

- (1) Describe information that must be included in a claim;
- (2) Provide a mailing address where a claim may be sent;
- (3) State the deadline, which may not be fewer than one hundred eighty days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and
- (4) State that the claim will be barred if not received by the deadline.

3. Other rules of law, including rules on the permissibility of third-party claims, to the contrary notwithstanding, a claim against a corporation dissolved without fraudulent intent is barred:

- (1) If a claimant who was given written notice pursuant to subsection 2 of this section does not deliver the claim to the corporation by the deadline;
- (2) If a claimant whose claim was rejected by the dissolved corporation does not commence proceedings to enforce the claim within ninety days from the effective date of the rejection notice.

4. For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

5. For purposes of this section, "fraudulent intent" shall be established if it is shown that the sole or primary purpose of the authorization for dissolution was to defraud shareholders, creditors or others.

351.482. UNKNOWN CLAIMS AGAINST DISSOLVED CORPORATION. — 1. After dissolution is authorized **pursuant to sections 351.462, 351.464 or 351.466, or it has been dissolved pursuant to section 351.486**, a corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

2. The notice shall:

- (1) Be published one time in a newspaper of general circulation in the county where the corporation's principal office, or, if none in this state, its registered office, is or was last located;
- (2) Be published one time in a publication of statewide circulation whose audience is primarily persons engaged in the practice of law in this state and which is published not less than four times per year;
- (3) At the request of the corporation, be published by the secretary of state in an electronic format accessible to the public;
- (4) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and
- (5) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

3. Other rules of law, including rules on the permissibility of third-party claims, to the contrary notwithstanding, if a corporation dissolved without fraudulent intent publishes notices in accordance with subsection 2 of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two years after the publication date of whichever of the notices was published last:

- (1) A claimant who did not receive written notice pursuant to section 351.478;
- (2) A claimant whose claim was timely sent to the dissolved corporation but not acted on;
- (3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced pursuant to this section only:

- (1) Against the dissolved corporation, to the extent of its undistributed assets; or
- (2) If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims pursuant to this section may not exceed the total amount of assets distributed to the shareholder.

5. For purposes of this section, "fraudulent intent" shall be established if it is shown that the sole or primary purpose of the authorization for dissolution or the dissolution was to defraud shareholders, creditors or others.

351.608. NO PRIOR APPROVAL BY STATE AGENCY NECESSARY FOR FOREIGN CORPORATIONS, WHEN. — Notwithstanding any provision of law to the contrary in this or any other chapter, no foreign corporation doing business in this state shall be required to obtain prior approval of any state agency to acquire, directly or indirectly, the stock or bonds of another foreign corporation incorporated for, or engaged in, the same or a similar business which does not conduct business in this state. Nothing herein shall be construed to limit or impair any state agency from exercising any lawful authority as may be necessary to protect the interests of the public in this state with respect to any such acquisition. This provision is enacted in part to clarify and specify the law existing prior to August 28, 2001.

355.023. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

356.233. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

359.653. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

400.001-105. TERRITORIAL APPLICATION OF THE ACT — PARTIES' POWER TO CHOOSE APPLICABLE LAW. — (1) Except as provided hereafter in this section, when a transaction bears

a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 400.2-402.

Applicability of the Article on Leases. Sections 400.2A-105 and 400.2A-106.

Applicability of the Article on Bank Deposits and Collections. Section 400.4-102.

Letter of credit. Section 400.5-116.

Bulk transfers subject to the Article on Bulk Transfers. Section 400.6-102.

Applicability of the Article on Investment Securities. Section 400.8-110.

[Perfection provisions of the Article on Secured Transactions. Section 400.9-103.]

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests. Sections 400.9-301 through 400.9-307.

400.001-201. GENERAL DEFINITIONS. — Subject to additional definitions contained in the subsequent articles of this chapter which are applicable to specific articles or parts thereof, and unless the context otherwise requires, in this chapter:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this chapter (sections 400.1-205 and 400.2-208). Whether an agreement has legal consequences is determined by the provisions of this chapter, if applicable; otherwise by the law of contracts (section 400.1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or endorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person [who] **that buys goods** in good faith and without knowledge that the sale [to him is in violation of the ownership rights or security interest of a third party] **violates the rights of another person** in the goods [buys], **and in the ordinary course from a person, other than a pawnbroker**, in the business of selling goods of that kind [but does not include a pawnbroker]. [All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons] **A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas or other minerals at the wellhead or minehead is a person** in the business of selling goods of that kind. ["Buying" may be] **A buyer in ordinary course of business may buy** for cash [or], by exchange of other property or on secured or unsecured credit and [includes receiving] **may acquire** goods or documents of title under a preexisting contract for sale [but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt]. **Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under article 2**

may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for, or in total or partial satisfaction of, a money debt is not a buyer in ordinary course of business.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this chapter and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this chapter to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder" with respect to a document of title means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his **or her** debts in the ordinary course of business or cannot pay his **or her** debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(25) A person has "notice" of a fact when

(a) [he] **a person** has actual knowledge of it; or

(b) [he] **a person** has received a notice or notification of it; or

(c) from all the facts and circumstances known to him **or her** at the time in question he **or she** has reason to know that it exists. A person "knows" or has "knowledge" of a fact when [he] a person has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to [his] **a person's** attention, or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by [him] **a person** as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to [his] **an individual's** attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of [his] **an individual's** regular duties or unless he **or she** has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within this chapter.

(30) "Person" includes an individual or an organization (see section 400.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, **security interest**, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. [The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 400.2-401) is limited in effect to a reservation of a "security interest".] The term also includes any interest of a **consignor and a buyer of accounts [or], chattel paper [which], a payment intangible, or a promissory note in a transaction that** is subject to article 9. The special property interest of a buyer of goods on identification of those goods to a contract for sale under section 400.2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with article 9. [Unless a consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment in any event is subject to the provisions on consignment sales (section 400.2-326).] **Except as otherwise provided in section 400.2-505, the right of a seller or lessor of goods under article 2 or 2A to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by**

complying with article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 400.2-401) is limited in effect to a reservation of a "security interest".

Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

(a) the original term of the lease is equal to or greater than the remaining economic life of the goods,

(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(c) the lessee has an option to renew the lease or to become the owner of the goods,

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed. For purposes of subsection (37):

(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(z) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Special property" means identifiable property in which the holder has only a qualified, temporary, or limited interest.

[(40)] **(41)** "Surety" includes guarantor.

[(41)] **(42)** "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

[(42)] **(43)** "Term" means that portion of an agreement which relates to a particular matter.

[(43)] **(44)** "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

[(44)] **(45)** "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (sections 400.3-303, 400.4-208 and 400.4-209) a person gives "value" for rights if he **or she** acquires them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a pre-existing claim; or

(c) by accepting delivery pursuant to a pre-existing contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

[(45)] **(46)** "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

[(46)] **(47)** "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

400.002-103. DEFINITIONS AND INDEX OF DEFINITIONS. — (1) In this article unless the context otherwise requires

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this article or to specified parts thereof, and the sections in which they appear are:

"Acceptance". Section 400.2-606.

"Banker's credit". Section 400.2-325.

"Between merchants". Section 400.2-104.

"Cancellation". Section 400.2-106(4).

"Commercial unit". Section 400.2-105.

"Confirmed credit". Section 400.2-325.

"Conforming to contract". Section 400.2-106.

"Contract for sale". Section 400.2-106.

"Cover". Section 400.2-712.

"Entrusting". Section 400.2-403.

"Financing agency". Section 400.2-104.

"Future goods". Section 400.2-105.

"Goods". Section 400.2-105.

"Identification". Section 400.2-501.

"Installment contract". Section 400.2-612.

"Letter of credit". Section 400.2-325.

"Lot". Section 400.2-105.

"Merchant". Section 400.2-104.

"Overseas". Section 400.2-323.

"Person in position of seller". Section 400.2-707.

"Present sale". Section 400.2-106.

"Sale". Section 400.2-106.

"Sale on approval". Section 400.2-326.

"Sale or return". Section 400.2-326.

"Termination". Section 400.2-106.

(3) The following definitions in other articles apply to this article:

"Check". Section 400.3-104.

"Consignee". Section 400.7-102.

"Consignor". Section 400.7-102.

"Consumer goods". Section [400.9-109] **400.9- 102.**

"Dishonor". Section [400.3-507] **400.3-502.**

"Draft". Section 400.3-104.

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

400.002-210. DELEGATION OF PERFORMANCE — ASSIGNMENT OF RIGHTS. — (1) A party may perform his **or her** duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his **or her** original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him **or her** by his **or her** contract, or impair materially his **or her** chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his **or her** entire obligation can be assigned despite agreement otherwise.

(3) **The creation, attachment, perfection or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) of this section unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.**

(4) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

[(4)] (5) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him **or her** to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

[(5)] (6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his **or her** rights against the assignor demand assurances from the assignee (section 400.2-609).

400.002-326. SALE ON APPROVAL AND SALE OR RETURN — RIGHTS OF CREDITORS. —

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

- (a) a "sale on approval" if the goods are delivered primarily for use, and
- (b) a "sale or return" if the goods are delivered primarily for resale.
- (2) [Except as provided in subsection (3),] Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.
- (3) [Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum". However, this subsection is not applicable if the person making delivery
 - (a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or
 - (b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or
 - (c) complies with the filing provisions of the article on secured transactions (article 9).
- (4) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (section 400.2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (section 400.2-202).

400.002-401. PASSING OF TITLE — RESERVATION FOR SECURITY — LIMITED APPLICATION OF THIS SECTION. — Each provision of this article with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this article and matters concerning title become material the following rules apply:

- (1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (section 400.2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this chapter. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the article on secured transactions (article 9), title **and/or ownership** to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.
- (2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his **or her** performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading
 - (a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him **or her** to deliver them at destination, title passes to the buyer at the time and place of shipment; but
 - (b) if the contract requires delivery at destination, title passes on tender there.
- (3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,
 - (a) if the seller is to deliver a document of title, title passes at the time when and the place where he **or she** delivers such documents; or
 - (b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revesting occurs by operation of law and is not a "sale".

400.002-502. BUYER'S RIGHT TO GOODS ON SELLER'S REPUDIATION, FAILURE TO DELIVER, OR INSOLVENCY. — (1) Subject to [subsection] **subsections (2) and (3), of this section** and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he **or she** has a special property under the provisions of section 400.2-501 may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

(a) **in the case of goods bought for personal, family or household purposes, the seller repudiates or fails to deliver as required by the contract; or**

(b) **in all cases,** the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) **The buyer's right to recover the goods under subdivision (a) of this section vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.**

(3) If the identification creating his **or her** special property has been made by the buyer he **or she** acquires the right to recover the goods only if they conform to the contract for sale.

400.002-716. BUYER'S RIGHT TO SPECIFIC PERFORMANCE OR REPLEVIN. — (1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he **or she** is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. **In the case of goods bought for personal, family or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.**

400.02A-103. DEFINITIONS AND INDEX OF DEFINITIONS. — (1) In this Article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him **or her** is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for option to renew or buy, do not exceed fifty thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessor (aa) informs the lessee in writing of the identity of the supplier, unless the lessee has selected the supplier and directed the lessor to purchase the goods from the supplier, (bb) informs the lessee in writing that the lessee may have rights under the contract evidencing the lessor's purchase of the goods, and (cc) advised the lessee in writing to contact the supplier for a description of any such rights, or

(D) the lease contract discloses all warranties and other rights provided to the lessee by the lessor and supplier in connection with the lease contract and informs the lessee that there are no warranties or other rights provided to the lessee by the lessor and supplier other than those disclosed in the lease contract.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures **[[] as defined in Section 400.2A-309[]]**, but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him **or her** is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes

receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Accessions". Section 400.2A-310(1).

"Construction mortgage". Section 400.2A-309(1)(d).

"Encumbrance". Section 400.2A-309(1)(e).

"Fixtures". Section 400.2A-309(1)(a).

"Fixture filing". Section 400.2A-309(1)(b).

"Purchase money lease". Section 400.2A-309(1)(c).

(3) The following definitions in other articles apply to this Article:

"Account". Section [400.9-106] **400.9- 102(a)(2)**.

"Between merchants". Section 400.2-104(3).

"Buyer". Section 400.2-103(1)(a).

"Chattel paper". Section [400.9-105(1)(b)] **400.9-102(a)(10)**.

"Consumer goods". Section [400.9-109(1)] **400.9- 102(a)(22)**.

"Document". Section [400.9-105(1)(f)] **400.9- 102(a)(29)**.

"Entrusting". Section 400.2-403(3).

"General [intangibles] **intangible**". Section [400.9-106] **400.9-102(a)(41)**.

"Good faith". Section 400.2-103(1)(b).

"Instrument". Section [400.9-105(1)(i)] **400.9- 102(a)(46)**.

"Merchant". Section 400.2-104(1).

"Mortgage". Section [400.9-105(1)(j)] **400.9- 102(a)(54)**.

"Pursuant to commitment". Section [400.9-105(1)(k)] **400.9-102(a)(68)**.

"Receipt". Section 400.2-103(1)(c).

"Sale". Section 400.2-106(1).

"Sale on approval". Section 400.2-326.

"Sale or return". Section 400.2-326.

"Seller". Section 400.2-103(1)(d).

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

400.02A-303. ALIENABILITY OF PARTY'S INTEREST UNDER LEASE CONTRACT OR OF LESSOR'S RESIDUAL INTEREST IN GOODS — DELEGATION OF PERFORMANCE — TRANSFER OF RIGHTS. — (1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9, Secured Transactions, by reason of Section [400.9-102(1)(b)] **400.9-109(a)(2)**.

(2) Except as provided in [subsections] **subsection (3)** and [(4)] **section 400.9-407**, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection [(5)] **(4)**, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) [A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.

(4) [A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection [(5)] **(4)**.

[(5)] **(4)** Subject to [subsections] **subsection (3)** and [(4)] **section 400.9-407**:

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in Section 400.2A-501(2);

(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

[(6)] **(5)** A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights, and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform

those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

[(7)] (6) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

400.02A-307. PRIORITY OF LIENS ARISING BY ATTACHMENT OR LEVY ON — SECURITY INTEREST IN — AND OTHER CLAIMS TO GOODS. — (1) Except as otherwise provided in section 400.2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in [subsections] **subsection (3)** [and (4)] and in sections 400.2A-306 and 400.2A-308, a creditor of a lessor takes subject to the lease contract unless[

(a)] the creditor holds a lien that attached to the goods before the lease contract became enforceable[.

(b) the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or

(c) the creditor holds a security interest in the goods which was perfected (Section 400.9-303) before the lease contract became enforceable].

(3) [A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (Section 400.9-303) and the lessee knows of its existence.] **Except as otherwise provided in sections 400.9-317, 400.9-321 and 400.9-323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor.**

[(4)] A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.]

400.02A-309. LESSOR'S AND LESSEE'S RIGHTS WHEN GOODS BECOME FIXTURES. — (1) In this section:

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing, in the office where a **record of a mortgage** on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of Section [400.9-402(5)] **400.9-502(a) and (b)**;

(c) a lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) a mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) "encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under this Article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this Article of ordinary building materials incorporated into an improvement on land.

(3) This Article does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) the lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture

filing before the goods become fixtures or within ten days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) the interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or

(b) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) the encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) the lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection (4)(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this article, or (ii) if necessary to enforce other rights and remedies of the lessor or lessee under this Article, remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the Article on Secured Transactions (Article 9).

400.004-210. SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING DOCUMENTS AND PROCEEDS. — (a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) in case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon or there is a right of charge-back; or

(3) if it makes an advance on or against the item.

(b) If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9, but:

(1) no security agreement is necessary to make the security interest enforceable (Section [400.9-203(1)(a)] **400.9-203(b)(3)(A)**);

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds.

400.005-118. SECURITY INTEREST IN A DOCUMENT. — (a) **An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.**

(b) **So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a), the security interest continues and is subject to article 9, but:**

(1) **a security agreement is not necessary to make the security interest enforceable under section 400.9-203(b)(3);**

(2) **if the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and**

(3) **if the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.**

400.007-503. DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN CASES. — (1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any document of title covering them to the bailor or his **or her** nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this article (section 400.7-403) or with power of disposition under this chapter (sections 400.2-403 and [400.9-307] **400.9-320**) or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or his **or her** nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under section 400.7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with part 4 of this article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

400.008-103. RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS. — (a) A share or similar equity interest issued by a corporation, business trust, joint stock company or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this article and not by article 3 of this chapter, even though it also meets the requirements of that article. However, a negotiable instrument governed by article 3 of this chapter is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in section [400.9-115] **400.9-102(a)(14)**, is not a security or a financial asset.

400.008-106. CONTROL. — (a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

- (1) The certificate is indorsed to the purchaser or in blank by an effective indorsement; or
- (2) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if:

- (1) The uncertificated security is delivered to the purchaser; or
- (2) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if:

- (1) The purchaser becomes the entitlement holder; [or]
- (2) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; **or**

(3) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection (c)[(2)] or (d)[(2)] has control even if the registered owner in the case of subsection (c)[(2)] or the entitlement holder in the case of subsection (d)[(2)] retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement

even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

400.008-110. APPLICABILITY; CHOICE OF LAW. — (a) The local law of the issuer's jurisdiction, as specified in subsection (d), governs:

- (1) The validity of a security;
- (2) The rights and duties of the issuer with respect to registration of transfer;
- (3) The effectiveness of registration of transfer by the issuer;
- (4) Whether the issuer owes any duties to an adverse claimant to a security; and
- (5) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in subsection (e), governs:

- (1) Acquisition of a security entitlement from the securities intermediary;
- (2) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;
- (3) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and
- (4) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection (a)(2) through (5).

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder [specifies that it is governed by the law of a particular jurisdiction] **governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this article, or chapter 400**, that jurisdiction is the securities intermediary's jurisdiction;

(2) If **paragraph (1) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.**

(3) **If neither paragraph (1) nor paragraph (2) applies, and** an agreement between the securities intermediary and its entitlement holder [does not specify the governing law as provided in paragraph (1), but] **governing the securities account** expressly [specified] **provides** that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

[(3)] (4) If [an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2)] **none of the preceding paragraphs apply**, the securities intermediary's jurisdiction is the jurisdiction in which [is located] the office identified in an account statement as the office serving the entitlement holder's account **is located**.

[(4)] **(5)** If [an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (3)] **none of the preceding paragraphs apply**, the securities intermediary's jurisdiction is the jurisdiction in which [is located] the chief executive office of the securities intermediary **is located**.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

400.008-301. DELIVERY. — (a) Delivery of a certificated security to a purchaser occurs when:

- (1) The purchaser acquires possession of the security certificate;
- (2) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or
- (3) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and [has been] **is (i) registered in the name of the purchaser; (ii) payable to the order of the purchaser; or (iii) specially indorsed to the purchaser by an effective indorsement and has not been indorsed to the securities intermediary or in blank.**

(b) Delivery of an uncertificated security to a purchaser occurs when:

- (1) The issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or
- (2) Another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

400.008-302. RIGHTS OF PURCHASER. — (a) Except as otherwise provided in subsections (b) and (c), [upon delivery] **a purchaser** of a certificated or uncertificated security [to a purchaser, the purchaser] acquires all rights in the security that the transferor had or had power to transfer.

(b) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(c) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

400.008-510. RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER. — (a) **In a case not covered by the priority rules in article 9 or the rules stated in subsection (c)**, an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under section 400.8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in article 9 of this chapter, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. **Except as otherwise provided in subsection (d)**, purchasers who have control rank [equally, except that a] **according to priority in time of:**

(1) the purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under section 400.8-106(d)(1);

(2) the securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under section 400.8-106(d)(2); or

(3) if the purchaser obtained control through another person under section 400.8-106(d)(3), the time on which priority would be based under this subsection if the other person were the secured party.

(d) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

400.009-101. SHORT TITLE. — This article may be cited as "Uniform Commercial Code-Secured Transactions".

400.009-102. DEFINITIONS AND INDEX OF DEFINITIONS. — (a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card;

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper;

(4) "Accounting", except as used in "accounting for", means a record:

(A) Authenticated by a secured party;

(B) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) Identifying the components of the obligations in reasonable detail;

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation;

(B) Which is created by statute in favor of a person that:

(i) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(C) Whose effectiveness does not depend on the person's possession of the personal property;

(6) "As-extracted collateral" means:

(A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction;

(7) "Authenticate" means:

(A) To sign; or

(B) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record;

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like;

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, or a lease of specific goods. The term does not include charters or other contracts involving the use or hire of a vessel. If a transaction is evidenced both by a security agreement or lease and by an instrument or series of instruments, the group of records taken together constitutes chattel paper;

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) Goods that are the subject of a consignment;

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) The claimant is an individual and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) Does not include damages arising out of personal injury to or the death of an individual;

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer;

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(17) "Commodity intermediary" means a person that:

(A) Is registered as a futures commission merchant under federal commodities law;
or

(B) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(18) "Communicate" means:

(A) To send a written or other tangible record;

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;

(19) "Consignee" means a merchant to which goods are delivered in a consignment;

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) The goods are not consumer goods immediately before delivery; and

(D) The transaction does not create a security interest that secures an obligation;

(21) "Consignor" means a person that delivers goods to a consignee in a consignment;

(22) "Consumer debtor" means a debtor in a consumer transaction;

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes;

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) An individual incurs an obligation primarily for personal, family, or household purposes; and

(B) A security interest in consumer goods secures the obligation;

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes;

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions;

(27) "Continuation statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;

(28) "Debtor" means:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) A consignee;

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument;

(30) "Document" means a document of title or a receipt of the type described in section 400.7-201(2);

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium;

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property;

(33) "Equipment" means goods other than inventory, farm products, or consumer goods;

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

(ii) Aquatic goods produced in aquacultural operations;

(B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) Supplies used or produced in a farming operation; or

(D) Products of crops or livestock in their unmanufactured states;

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation;

(36) "File number" means the number assigned to an initial financing statement pursuant to section 400.9-519(a);

(37) "Filing office" means an office designated in section 400.9-501 as the place to file a financing statement;

(38) "Filing-office rule" means a rule adopted pursuant to section 400.9-526;

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 400.9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures;

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software;

(43) "Good faith" means honesty in fact;

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction;

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided;

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;

(48) "Inventory" means goods, other than farm products, which:

(A) Are leased by a person as lessor;

(B) Are held by a person for sale or lease or to be furnished under a contract of service;

(C) Are furnished by a person under a contract of service; or

(D) Consist of raw materials, work in process, or materials used or consumed in a business;

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account;

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized;

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;

(52) "Lien creditor" means:

(A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) An assignee for benefit of creditors from the time of assignment;

(C) A trustee in bankruptcy from the date of the filing of the petition; or

(D) A receiver in equity from the time of appointment;

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;

(54) "Manufactured-home transaction" means a secured transaction:

(A) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation;

(56) "New debtor" means a person that becomes bound as debtor under section 400.9-203(d) by a security agreement previously entered into by another person;

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation;

(58) "Noncash proceeds" means proceeds other than cash proceeds;

(59) "Notice" means a properly filed financing statement;

(60) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit;

(61) "Original debtor" means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 400.9-203(d);

(62) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation;

(63) "Person related to", with respect to an individual, means:

(A) The spouse of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual's spouse; or

(D) Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual;

(64) "Person related to", with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);

(D) The spouse of an individual described in subparagraph (A), (B), or (C); or

(E) An individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual;

(65) "Proceeds" means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

(66) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

(67) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 400.9-620, 400.9-621 and 400.9-622;

(68) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

(69) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized;

(71) "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either;

(72) "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under sections 400.2-401, 400.2-505, 400.2-711(3), 400.2A-508(5), 400.4-210 or 400.5-118;

(73) "Security agreement" means an agreement that creates or provides for a security interest;

(74) "Send", in connection with a record or notification, means:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A);

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property;

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

(79) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective;

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

- (C) Transmitting goods by pipeline or sewer; or
 (D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) The following definitions in other articles apply to this article:

"Applicant"	Section 400.5-102.
"Beneficiary"	Section 400.5-102.
"Broker"	Section 400.8-102.
"Certificated security"	Section 400.8-102.
"Check"	Section 400.3-104.
"Clearing corporation"	Section 400.8-102.
"Contract for sale"	Section 400.2-106.
"Customer"	Section 400.4-104.
"Entitlement holder"	Section 400.8-102.
"Financial asset"	Section 400.8-102.
"Holder in due course"	Section 400.3-302.
"Issuer" (with respect to a letter of credit or letter-of-credit right)	Section 400.5-102.
"Issuer" (with respect to a security)	Section 400.8-201.
"Lease"	Section 400.2A-103.
"Lease agreement"	Section 400.2A-103.
"Lease contract"	Section 400.2A-103.
"Leasehold interest"	Section 400.2A-103.
"Lessee"	Section 400.2A-103.
"Lessee in ordinary course of business"	Section 400.2A-103.
"Lessor"	Section 400.2A-103.
"Lessor's residual interest"	Section 400.2A-103.
"Letter of credit"	Section 400.5-102.
"Merchant"	Section 400.2-104.
"Negotiable instrument"	Section 400.3-104.
"Nominated person"	Section 400.5-102.
"Note"	Section 400.3-104.
"Proceeds of a letter of credit"	Section 400.5-114.
"Prove"	Section 400.3-103.
"Sale"	Section 400.2-106.
"Securities account"	Section 400.8-501.
"Securities intermediary"	Section 400.8-102.
"Security"	Section 400.8-102.
"Security certificate"	Section 400.8-102.
"Security entitlement"	Section 400.8-102.
"Uncertificated security"	Section 400.8-102.

(c) This section contains general definitions and principles of construction and interpretation applicable throughout sections 400.9-103 to 400.9-708.

400.009-103. PURCHASE-MONEY SECURITY INTEREST — APPLICATION OF PAYMENTS — BURDEN OF ESTABLISHING. — (a) In this section:

- (1) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and
- (2) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(b) A security interest in goods is a purchase-money security interest:

(1) To the extent that the goods are purchase-money collateral with respect to that security interest;

(2) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(3) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) The debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) The debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) In accordance with any reasonable method of application to which the parties agree;

(2) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

(A) To obligations that are not secured; and

(B) If more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

(1) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(2) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(3) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(g) In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(h) The limitation of the rules in subsections (e), (f), and (g) to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

400.009-104. CONTROL OF DEPOSIT ACCOUNT. — (a) A secured party has control of a deposit account if:

(1) The secured party is the bank with which the deposit account is maintained;

(2) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the account without further consent by the debtor; or

(3) The secured party becomes the bank's customer with respect to the deposit account.

(b) A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

400.009-105. CONTROL OF ELECTRONIC CHATTEL PAPER. — A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

400.009-106. CONTROL OF INVESTMENT PROPERTY. — (a) A person has control of a certificated security, uncertificated security, or security entitlement as provided in section 400.8-106.

(b) A secured party has control of a commodity contract if:

(1) The secured party is the commodity intermediary with which the commodity contract is carried; or

(2) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(c) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

400.009-107. CONTROL OF LETTER-OF-CREDIT-RIGHT. — A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under section 400.5-114(c) or otherwise applicable law or practice.

400.009-108. SUFFICIENCY OF DESCRIPTION. — (a) Except as otherwise provided in subsections (c), (d), and (e), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) Except as otherwise provided in subsection (d), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(1) Specific listing;

(2) Category;

(3) Except as otherwise provided in subsection (e), a type of collateral defined in chapter 400;

- (4) Quantity;
- (5) Computational or allocational formula or procedure; or
- (6) Except as otherwise provided in subsection (c), any other method, if the identity of the collateral is objectively determinable.

(c) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(d) Except as otherwise provided in subsection (e), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

- (1) The collateral by those terms or as investment property; or
- (2) The underlying financial asset or commodity contract.

(e) A description only by type of collateral defined in chapter 400 is an insufficient description of:

- (1) A commercial tort claim; or
- (2) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

400.009-109. SCOPE. — (a) Except as otherwise provided in subsections (c) and (d), this article applies to:

- (1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) An agricultural lien;
- (3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) A consignment;
- (5) A security interest arising under section 400.2-401, 400.2-505, 400.2-711(3) or 400.2A-508(5), as provided in section 400.9-110; and
- (6) A security interest arising under section 400.4-210 or 400.5-118.

(b) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) This article does not apply to the extent that:

- (1) A statute, regulation, or treaty of the United States preempts this article;
- (2) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
- (3) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 400.5-114.

(d) This article does not apply to:

- (1) A landlord's lien, other than an agricultural lien;
 - (2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 400.9-333 applies with respect to priority of the lien;
 - (3) An assignment of a claim for wages, salary, or other compensation of an employee;
 - (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
 - (5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;
 - (6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
 - (7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
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(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds;

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) A right of recoupment or set-off, but:

(A) Section 400.9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) Section 400.9-404 applies with respect to defenses or claims of an account debtor;

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) Liens on real property in sections 400.9-203 and 400.9-308;

(B) Fixtures in section 400.9-334;

(C) Fixture filings in sections 400.9-501, 400.9-502, 400.9-512, 400.9-516 and 400.9-519; and

(D) Security agreements covering personal and real property in section 400.9-604;

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds;

(13) An assignment of a deposit account in a consumer transaction, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; or

(14) An assignment of a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. Section 104(a)(1) or (2), as amended from time to time; or

(15) An assignment of a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. Section 1396p(d)(4), as amended from time to time; or

(16) A transfer by a government or governmental subdivision or agency.

400.009-110. SECURITY INTERESTS ARISING UNDER ARTICLE 2 OR 2A. — A security interest arising under sections 400.2-401, 400.2-505, 400.2-711(3) or 400.2A-508(5) is subject to this article. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if section 400.9-203(b)(3) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by article 2 or 2A; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

400.009-118. ADDITIONAL FEE COLLECTED BY SECRETARY OF STATE. — The secretary of state may collect an additional fee of five dollars on each and every fee paid to the secretary of state as required in chapter 400.9. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, 2009.

PART 2
EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT

400.009-201. GENERAL EFFECTIVENESS OF SECURITY AGREEMENT. — (a) Except as otherwise provided in chapter 400, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) A transaction subject to this article is subject to any applicable rule of law which establishes a different rule for consumers.

(c) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) has only the effect the statute or regulation specifies.

(d) This article does not:

(1) Validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or

(2) Extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

400.009-202. TITLE TO COLLATERAL IMMATERIAL. — Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

400.009-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST — PROCEEDS — SUPPORTING OBLIGATIONS — FORMAL REQUISITES. — (a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) Value has been given;

(2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) One of the following conditions is met:

(A) The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) The collateral is not a certificated security and is in the possession of the secured party under section 400.9-313 pursuant to the debtor's security agreement;

(C) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 400.8-301 pursuant to the debtor's security agreement; or

(D) The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under section 400.9-104, 400.9-105, 400.9-106 or 400.9-107 pursuant to the debtor's security agreement.

(c) Subsection (b) is subject to section 400.4-210 on the security interest of a collecting bank, section 400.5-118 on the security interest of a letter-of-credit issuer or nominated person, section 400.9-110 on a security interest arising under article 2 or 2A, and section 400.9-206 on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

(1) The security agreement becomes effective to create a security interest in the person's property; or

(2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) The agreement satisfies subsection (b)(3) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by section 400.9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

400.009-204. AFTER-ACQUIRED PROPERTY — FUTURE ADVANCES. — (a) Except as otherwise provided in subsection (b), a security agreement may create or provide for a security interest in after-acquired collateral.

(b) A security interest does not attach under a term constituting an after-acquired property clause to:

(1) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten days after the secured party gives value; or

(2) A commercial tort claim.

(c) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

400.009-205. USE OR DISPOSITION OF COLLATERAL PERMISSIBLE. — (a) A security interest is not invalid or fraudulent against creditors solely because:

(1) The debtor has the right or ability to:

(A) Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

(B) Collect, compromise, enforce, or otherwise deal with collateral;

(C) Accept the return of collateral or make repossessions; or

(D) Use, commingle, or dispose of proceeds; or

(2) The secured party fails to require the debtor to account for proceeds or replace collateral.

(b) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

400.009-206. SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET. — (a) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(1) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(2) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(b) The security interest described in subsection (a) secures the person's obligation to pay for the financial asset.

(c) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(1) The security or other financial asset:

(A) In the ordinary course of business is transferred by delivery with any necessary endorsement or assignment; and

(B) Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(2) The agreement calls for delivery against payment.

(d) The security interest described in subsection (c) secures the obligation to make payment for the delivery.

400.009-207. RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL. — (a) Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) The risk of accidental loss or damage is on the party having possession of the collateral;

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) The secured party may use or operate the collateral:

(A) For the purpose of preserving the collateral or its value;

(B) As permitted by an order of a court having competent jurisdiction; or

(C) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under section 400.9-104, 400.9-105, 400.9-106 or 400.9-107:

(1) May hold as additional security any proceeds, except money or funds, received from the collateral;

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) May create a security interest in the collateral.

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) Subsection (a) does not apply unless the secured party is entitled under an agreement:

(A) To charge back uncollected collateral; or

(B) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) do not apply.

400.009-208. ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL. — (a) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten days after receiving an authenticated demand by the debtor:

(1) A secured party having control of a deposit account under section 400.9-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under section 400.9-104(a)(3) shall:

(A) Pay the debtor the balance on deposit in the deposit account; or

(B) Transfer the balance on deposit into a deposit account in the debtor's name;

(3) A secured party, other than a buyer, having control of electronic chattel paper under section 400.9-105 shall:

(A) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) A secured party having control of investment property under section 400.8-106(d)(2) or 400.9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) A secured party having control of a letter-of-credit right under section 400.9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

400.009-209. DUTIES OF SECURED PARTY IF ACCOUNT OF DEBTOR HAS BEEN NOTIFIED OF ASSIGNMENT. — (a) Except as otherwise provided in subsection (c), this section applies if:

(1) There is no outstanding secured obligation; and

(2) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under section 400.9-406(a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

400.009-210. REQUEST FOR ACCOUNTING — REQUEST REGARDING LIST OF COLLATERAL OR STATEMENT OF ACCOUNT. — (a) In this section:

(1) "Request" means a record of a type described in paragraph (2),(3), or (4);

(2) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request;

(3) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request;

(4) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) Subject to subsections (c), (d), (e), and (f), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen days after receipt:

(1) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(2) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(c) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within fourteen days after receipt.

(d) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor an authenticated record:

(1) Disclaiming any interest in the collateral; and

(2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's security interest in the collateral.

(e) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor an authenticated record:

(1) Disclaiming any interest in the obligations; and

(2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

PART 3 PERFECTION AND PRIORITY

400.009-301. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS.

— Except as otherwise provided in sections 400.9-303 through 400.9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral;

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral;

(3) Except as otherwise provided in paragraph (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

- (A) Perfection of a security interest in the goods by filing a fixture filing;
- (B) Perfection of a security interest in timber to be cut; and
- (C) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral;
- (4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

400.009-302. LAW GOVERNING PERFECTION AND PRIORITY OF AGRICULTURAL LIENS. — While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

400.009-303. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE. — (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

(d) When a notice of lien is filed in accordance with chapter 301 or 306, RSMo, then the lien is perfected and chapter 400, RSMo, shall not govern perfection or nonperfection or the priority of the lien even though a valid application for a certificate of title and the applicable fee was not delivered to the appropriate authority or the certificate of title was not issued by such authority.

400.009-304. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNTS. — (a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this article, or chapter 400, that jurisdiction is the bank's jurisdiction;

(2) If paragraph (1) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(4) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located;

(5) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

400.009-305. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY. — (a) Except as otherwise provided in subsection (c), the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby;

(2) The local law of the issuer's jurisdiction as specified in section 400.8-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security;

(3) The local law of the securities intermediary's jurisdiction as specified in section 400.8-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account;

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(b) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this article, or chapter 400, that jurisdiction is the commodity intermediary's jurisdiction;

(2) If paragraph (1) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(4) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located;

(5) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) The local law of the jurisdiction in which the debtor is located governs:

(1) Perfection of a security interest in investment property by filing;

(2) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

400.009-306. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN LETTER-OF-CREDIT RIGHTS. — (a) Subject to subsection (c), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in section 400.5-116.

(c) This section does not apply to a security interest that is perfected only under section 400.9-308(c).

400.009-307. LOCATION OF DEBTOR. — (a) In this section, "place of business" means a place where a debtor conducts its affairs.

(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence;

(2) A debtor that is an organization and has only one place of business is located at its place of business;

(3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(c) Subsection (b) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c).

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) In the state that the law of the United States designates, if the law designates a state of location;

(2) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(3) In the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

(g) A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) notwithstanding:

(1) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) The dissolution, winding up, or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) This section applies only for purposes of this part.

400.009-308. WHEN SECURITY INTERESTS OR AGRICULTURE LIEN IS PERFECTED — CONTINUITY OF PERFECTION. — (a) Except as otherwise provided in this section and section 400.9-309, a security interest is perfected if it has attached and all of the applicable

requirements for perfection in sections 400.9-310 through 400.9-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in section 400.9-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this article and is later perfected by another method under this article, without an intermediate period when it was unperfected.

(d) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(e) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(f) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

400.009-309. SECURITY INTEREST PERFECTED UPON ATTACHMENT. — The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in section 400.9-311(b) with respect to consumer goods that are subject to a statute or treaty described in section 400.9-311(a);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under section 400.2-401, 400.2-505, 400.2-711(3) or 400.2A-508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under section 400.4-210;

(8) A security interest of an issuer or nominated person arising under section 400.5-118;

(9) A security interest arising in the delivery of a financial asset under section 400.9-206(c);

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

400.009-310. WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN — SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY. — (a) Except as otherwise provided in subsection (b) and section 400.9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

- (b) The filing of a financing statement is not necessary to perfect a security interest:
 - (1) That is perfected under section 400.9-308(c), (d), (e) or (f);
 - (2) That is perfected under section 400.9-309 when it attaches;
 - (3) In property subject to a statute, regulation, or treaty described in section 400.9-311(a);
 - (4) In goods in possession of a bailee which is perfected under section 400.9-312(d)(1) or (2);
 - (5) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under section 400.9-312(e), (f), or (g);
 - (6) In collateral in the secured party's possession under section 400.9-313;
 - (7) In a certificated security which is perfected by delivery of the security certificate to the secured party under section 400.9-313;
 - (8) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under section 400.9-314;
 - (9) In proceeds which is perfected under section 400.9-315; or
 - (10) That is perfected under section 400.9-316.
- (c) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

400.009-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES. — (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 400.9-310(a);

(2) Sections 301.600 to 301.661 and section 400.2A-304; or

(3) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and sections 400.9-313 and 400.9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d) and section 400.9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) During any period in which collateral is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling or leasing goods of that kind, this section does not apply to a security interest in that collateral created by that person as debtor.

400.009-312. PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER-OF-CREDIT RIGHTS, AND MONEY-PERFECTION BY PERMISSIVE FILING

— TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION. — (a) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Except as otherwise provided in section 400.9-315(c) and (d) for proceeds:

(1) A security interest in a deposit account may be perfected only by control under section 400.9-314;

(2) And except as otherwise provided in section 400.9-308(c), a security interest in a letter-of-credit right may be perfected only by control under section 400.9-314; and

(3) A security interest in money may be perfected only by the secured party's taking possession under section 400.9-313.

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) Issuance of a document in the name of the secured party;

(2) The bailee's receipt of notification of the secured party's interest; or

(3) Filing as to the goods.

(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of twenty days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) Ultimate sale or exchange; or

(2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) Ultimate sale or exchange; or

(2) Presentation, collection, enforcement, renewal, or registration of transfer.

(h) After the twenty-day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with this article.

400.009-313. WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING. — (a) Except as otherwise provided in subsection (b), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 400.8-301.

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in section 400.9-316(d).

(c) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person

other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under section 400.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) If a person acknowledges that it holds possession for the secured party's benefit:

(1) The acknowledgment is effective under subsection (c) or section 400.8-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) Unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) To hold possession of the collateral for the secured party's benefit; or

(2) To redeliver the collateral to the secured party.

(i) A secured party does not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

400.009-314. PERFECTION BY CONTROL. — (a) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under section 400.9-104, 400.9-105, 400.9-106 or 400.9-107.

(b) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under section 400.9-104, 400.9-105 or 400.9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under section 400.9-106 from the time the secured party obtains control and remains perfected by control until:

(1) The secured party does not have control; and

(2) One of the following occurs:

(A) If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

400.009-315. SECURED PARTY'S RIGHTS ON DISPOSITION OF COLLATERAL AND IN PROCEEDS. — (a) Except as otherwise provided in this article and in section 400.2-403(2):

(1) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized in writing the disposition free of the security interest or agricultural lien; and

(2) A security interest attaches to any identifiable proceeds of collateral.

(b) Proceeds that are commingled with other property are identifiable proceeds:

(1) If the proceeds are goods, to the extent provided by section 400.9-336; and

(2) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this article with respect to commingled property of the type involved.

(c) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(1) The following conditions are satisfied:

(A) A filed financing statement covers the original collateral;

(B) The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

(C) The proceeds are not acquired with cash proceeds;

(2) The proceeds are identifiable cash proceeds; or

(3) The security interest in the proceeds is perfected other than under subsection (c) when the security interest attaches to the proceeds or within twenty days thereafter.

(e) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (d)(1) becomes unperfected at the later of:

(1) When the effectiveness of the filed financing statement lapses under section 400.9-515 or is terminated under section 400.9-513; or

(2) The twenty-first day after the security interest attaches to the proceeds.

400.009-316. CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING CHANGE IN GOVERNING LAW. — (a) A security interest perfected pursuant to the law of the jurisdiction designated in section 400.9-301(1) or 400.9-305(c) remains perfected until the earliest of:

(1) The time perfection would have ceased under the law of that jurisdiction;

(2) The expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) The expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) Thereafter the collateral is brought into another jurisdiction; and

(3) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 400.9-311(b) or 400.9-313 are not satisfied before the earlier of:

(1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) The expiration of four months after the goods had become so covered.

(f) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) The time the security interest would have become unperfected under the law of that jurisdiction; or

(2) The expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

400.009-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. — (a) An unperfected security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under section 400.9-322; and

(2) A person that becomes a lien creditor before the earlier of the time the security interest or agricultural lien is perfected or a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 400.9-320 and 400.9-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

400.009-318. NO INTEREST RETAINED IN RIGHT TO PAYMENT THAT IS SOLD — RIGHTS AND TITLE OF SELLER OF ACCOUNT OR CHATTEL PAPER WITH RESPECT TO CREDITORS AND PURCHASERS. — (a) A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

400.009-319. RIGHTS AND TITLE OF CONSIGNEE WITH RESPECT TO CREDITORS AND PURCHASERS. — (a) Except as otherwise provided in subsection (b), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(b) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

400.009-320. BUYER OF GOODS. — (a) Except as otherwise provided in subsection (e), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) Except as otherwise provided in subsection (e), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

- (1) Without knowledge of the security interest;
- (2) For value;
- (3) Primarily for the buyer's personal, family, or household purposes; and
- (4) Before the filing of a financing statement covering the goods.

(c) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by section 400.9-316(a) and (b).

(d) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) Subsections (a) and (b) do not affect a security interest in goods in the possession of the secured party under section 400.9-313.

400.009-321. LICENSEE OF GENERAL INTANGIBLE AND LESSEE OF GOODS IN ORDINARY COURSE OF BUSINESS. — (a) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the

person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

400.009-322. PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN AND AGRICULTURAL LIENS ON SAME COLLATERAL. — (a) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(1) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(2) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(3) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(b) For the purposes of subsection (a)(1):

(1) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(2) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) Except as otherwise provided in subsection (f), a security interest in collateral which qualifies for priority over a conflicting security interest under section 400.9-327, 400.9-328, 400.9-329, 400.9-330 or 400.9-331 also has priority over a conflicting security interest in:

(1) Any supporting obligation for the collateral; and

(2) Proceeds of the collateral if:

(A) The security interest in proceeds is perfected;

(B) The proceeds are cash proceeds or of the same type as the collateral; and

(C) In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) Subject to subsection (e) and except as otherwise provided in subsection (f), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) Subsection (d) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(f) Subsections (a) through (e) are subject to:

(1) Subsection (g) and the other provisions of this part;

(2) Section 400.4-210 with respect to a security interest of a collecting bank;

(3) Section 400.5-118 with respect to a security interest of an issuer or nominated person; and

(4) Section 400.9-110 with respect to a security interest arising under article 2 or 2A.

(g) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

400.009-323. FUTURE ADVANCES. — (a) Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under section 400.9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

- (1) Is made while the security interest is perfected only:
 - (A) Under section 400.9-309 when it attaches; or
 - (B) Temporarily under section 400.9-312(e), (f), or (g); and
- (2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 400.9-309 or 400.9-312(e), (f), or (g).

(b) Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor while the security interest is perfected only to the extent that it secures advances made more than forty-five days after the person becomes a lien creditor unless the advance is made:

- (1) Without knowledge of the lien; or
- (2) Pursuant to a commitment entered into without knowledge of the lien.

(c) Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) Except as otherwise provided in subsection (e), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

- (1) The time the secured party acquires knowledge of the buyer's purchase; or
- (2) Forty-five days after the purchase.

(e) Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five-day period.

(f) Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

- (1) The time the secured party acquires knowledge of the lease; or
- (2) Forty-five days after the lease contract becomes enforceable.

(g) Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.

400.009-324. PRIORITY OF PURCHASE — MONEY SECURITY INTERESTS. — (a) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in section 400.9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty days thereafter.

(b) Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 400.9-330, and, except as otherwise provided

in section 400.9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Subsections (b)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under section 400.9-312(f), before the beginning of the twenty-day period thereunder.

(d) Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in section 400.9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) Subsections (d)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under section 400.9-312(f), before the beginning of the twenty-day period thereunder.

(f) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 400.9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) In all other cases, section 400.9-322(a) applies to the qualifying security interests.

400.009-325. PRIORITY IN SECURITY INTERESTS IN TRANSFERRED COLLATERAL. — (a) Except as otherwise provided in subsection (b), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

- (1) The debtor acquired the collateral subject to the security interest created by the other person;
 - (2) The security interest created by the other person was perfected when the debtor acquired the collateral; and
 - (3) There is no period thereafter when the security interest is unperfected.
- (b) Subsection (a) subordinates a security interest only if the security interest:
- (1) Otherwise would have priority solely under section 400.9-322(a) or 400.9-324; or
 - (2) Arose solely under section 400.2-711(3) or 400.2A-508(5).

400.009-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR. — (a) Subject to subsection (b), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under section 400.9-508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under section 400.9-508.

(b) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under section 400.9-508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

400.009-327. PRIORITY OF SECURED INTERESTS IN DEPOSIT ACCOUNT. — The following rules govern priority among conflicting security interests in the same deposit account:

- (1) A security interest held by a secured party having control of the deposit account under section 400.9-104 has priority over a conflicting security interest held by a secured party that does not have control.
- (2) Except as otherwise provided in paragraphs (3) and (4), security interests perfected by control under section 400.9-314 rank according to priority in time of obtaining control.
- (3) Except as otherwise provided in paragraph (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.
- (4) A security interest perfected by control under section 400.9-104(a)(3) has priority over a security interest held by the bank with which the deposit account is maintained.

400.009-328. PRIORITY IN SECURITY INTERESTS IN INVESTMENT PROPERTY. — The following rules govern priority among conflicting security interests in the same investment property:

- (1) A security interest held by a secured party having control of investment property under section 400.9-106 has priority over a security interest held by a secured party that does not have control of the investment property.
 - (2) Except as otherwise provided in paragraphs (3) and (4), conflicting security interests held by secured parties each of which has control under section 400.9-106 rank according to priority in time of:
 - (A) If the collateral is a security, obtaining control;
 - (B) If the collateral is a security entitlement carried in a securities account and:
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(i) If the secured party obtained control under section 400.8-106(d)(1), the secured party's becoming the person for which the securities account is maintained;

(ii) If the secured party obtained control under section 400.8-106(d)(2), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

(iii) If the secured party obtained control through another person under section 400.8-106(d)(3), the time on which priority would be based under this paragraph if the other person were the secured party; or

(C) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in section 400.9-106(b)(2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under section 400.9-313(a) and not by control under section 400.9-314 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under section 400.9-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by sections 400.9-322 and 400.9-323.

400.009-329. PRIORITY OF SECURITY INTERESTS IN LETTER-OF-CREDIT RIGHT. — The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under section 400.9-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under section 400.9-314 rank according to priority in time of obtaining control.

400.009-330. PRIORITY OF PURCHASER OF CHATTEL PAPER OR INSTRUMENT. — (a) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 400.9-105; and

(2) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 400.9-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) Except as otherwise provided in section 400.9-327, a purchaser having priority in chattel paper under subsection (a) or (b) also has priority in proceeds of the chattel paper to the extent that:

- (1) Section 400.9-322 provides for priority in the proceeds; or
- (2) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.
- (d) Except as otherwise provided in section 400.9-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.
- (e) For purposes of subsections (a) and (b), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.
- (f) For purposes of subsections (b) and (d), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

400.009-331. PRIORITY OF RIGHTS OF PURCHASERS OF INSTRUMENTS, DOCUMENTS, AND SECURITIES UNDER OTHER ARTICLES — PRIORITY OF INTERESTS IN FINANCIAL ASSETS AND SECURITY ENTITLEMENTS UNDER ARTICLE 8. — (a) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in articles 3, 7, and 8.

(b) This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under article 8.

(c) Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b).

400.009-332. TRANSFER OF MONEY — TRANSFER OF FUNDS FROM DEPOSIT ACCOUNT. — (a) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

400.009-333. PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW. — (a) In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

- (1) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;
 - (2) Which is created by statute or rule of law in favor of the person; and
 - (3) Whose effectiveness depends on the person's possession of the goods.
- (b) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

400.009-334. PRIORITY OF SECURITY INTERESTS IN FIXTURES AND CROPS. — (a) A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(b) This article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) In cases not governed by subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Except as otherwise provided in subsection (h), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

- (1) The security interest is a purchase-money security interest;
- (2) The interest of the encumbrancer or owner arises before the goods become fixtures; and
- (3) The security interest is perfected by a fixture filing before the goods become fixtures or within twenty days thereafter.

(e) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(A) Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(B) Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) Before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

- (A) Factory or office machines;
- (B) Equipment that is not primarily used or leased for use in the operation of the real property; or

(C) Replacements of domestic appliances that are consumer goods;

(3) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(4) The security interest is:

(A) Created in a manufactured home in a manufactured-home transaction; and

(B) Perfected pursuant to a statute described in section 400.9-311(a)(2).

(f) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) The debtor has a right to remove the goods as against the encumbrancer or owner.

(g) The priority of the security interest under subsection (f) continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(j) Subsection (i) prevails over any inconsistent provisions of other statutes.

400.009-335. ACCESSIONS. — (a) A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) Except as otherwise provided in subsection (d), the other provisions of this part determine the priority of a security interest in an accession.

(d) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under section 400.9-311(b).

(e) After default, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) A secured party that removes an accession from other goods under subsection (e) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

400.009-336. COMMINGLED GOODS. — (a) In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(d) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (c) is perfected.

(e) Except as otherwise provided in subsection (f), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (c).

(f) If more than one security interest attaches to the product or mass under subsection (c), the following rules determine priority:

(1) A security interest that is perfected under subsection (d) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) If more than one security interest is perfected under subsection (d), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

400.009-337. PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE. — If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under section 400.9-311(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

400.009-338. PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION. — If a security interest or agricultural lien is perfected by a filed financing statement providing information described in section 400.9-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

400.009-339. PRIORITY SUBJECT TO SUBORDINATION. — This article does not preclude subordination by agreement by a person entitled to priority.

400.009-340. EFFECTIVENESS OF RIGHT OF RECOUPMENT OR SET-OFF AGAINST DEPOSIT ACCOUNT. — (a) Except as otherwise provided in subsection (c), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(b) Except as otherwise provided in subsection (c), the application of this article to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(c) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under section 400.9-104(a)(3), if the set-off is based on a claim against the debtor.

400.009-341. BANK'S RIGHTS AND DUTIES WITH RESPECT TO DEPOSIT ACCOUNT. — Except as otherwise provided in section 400.9-340(c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

400.009-342. BANK'S RIGHTS TO REFUSE TO ENTER INTO OR DISCLOSE EXISTENCE OF CONTROL AGREEMENT. — This article does not require a bank to enter into an agreement of the kind described in section 400.9-104(a)(2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

PART 4 RIGHTS OF THIRD PARTIES

400.009-401. ALIENABILITY OF DEBTOR'S RIGHTS. — (a) Except as otherwise provided in subsection (b) and sections 400.9-406, 400.9-407, 400.9-408 and 400.9-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this article.

(b) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

400.009-402. SECURED PARTY NOT OBLIGATED ON CONTRACT OF DEBTOR OR IN TORT. — The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

400.009-403. AGREEMENT NOT TO ASSERT DEFENSES AGAINST ASSIGNEE. — (a) In this section, "value" has the meaning provided in section 400.3-303(a).

(b) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

- (1) For value;
- (2) In good faith;
- (3) Without notice of a claim of a property or possessory right to the property assigned; and
- (4) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under section 400.3-305(a).

(c) Subsection (b) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under section 400.3-305(b).

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

- (1) The record has the same effect as if the record included such a statement; and
- (2) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(e) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(f) Except as otherwise provided in subsection (d), this section does not displace law other than this article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

400.009-404. RIGHTS ACQUIRED BY ASSIGNEE — CLAIMS AND DEFENSES AGAINST ASSIGNEE. — (a) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e), the rights of an assignee are subject to:

- (1) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and
- (2) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(b) Subject to subsection (c) and except as otherwise provided in subsection (d), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) only to reduce the amount the account debtor owes.

(c) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) This section does not apply to an assignment of a health-care-insurance receivable.

400.009-405. MODIFICATION OF ASSIGNED CONTRACT. — (a) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d).

(b) Subsection (a) applies to the extent that:

(1) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(2) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under section 400.9-406(a).

(c) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) This section does not apply to an assignment of a health-care-insurance receivable.

400.009-406. DISCHARGE OF ACCOUNT DEBTOR — NOTIFICATION OF ASSIGNMENT — IDENTIFICATION AND PROOF OF ASSIGNMENT — RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE. — (a) Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h), notification is ineffective under subsection (a):

(1) If it does not reasonably identify the rights assigned;

(2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) Only a portion of the account, chattel paper, or general intangible has been assigned to that assignee;

(B) A portion has been assigned to another assignee; or

(C) The account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Except as otherwise provided in subsection (e) and sections 400.2A-303 and 400.9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) Provides that the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) Except as otherwise provided in sections 400.2A-303 and 400.9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(2) Provides that the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(j) This section prevails over any inconsistent provisions of any statutes, rules, and regulations.

400.009-407. RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST. — (a) Except as otherwise provided in subsection (b), a term in a lease agreement is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of a party to the lease to the creation, attachment, perfection, or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) Provides that the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) Except as otherwise provided in section 400.2A-303(7), a term described in subsection (a)(2) is effective to the extent that there is:

(1) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) A delegation of a material performance of either party to the lease contract in violation of the term.

(c) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section 400.2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective.

400.009-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE. — (a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

- (1) Would impair the creation, attachment, or perfection of a security interest; or
- (2) Provides that the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

- (1) Would impair the creation, attachment, or perfection of a security interest; or
- (2) Provides that the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

- (1) Is not enforceable against the person obligated on the promissory note or the account debtor;
- (2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;
- (3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
- (4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any

related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care- insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provisions of any statutes, rules, and regulations.

400.009-409. RESTRICTIONS ON ASSIGNMENT OF LETTER-OF-CREDIT RIGHTS INEFFECTIVE. — (a) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(2) Provides that the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) To the extent that a term in a letter of credit is ineffective under subsection (a) but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(1) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

PART 5 FILING

400.009-501. FILING OFFICE. — (a) Except as otherwise provided in subsection (b), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) The collateral is as-extracted collateral or timber to be cut; or

(B) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) The office of the secretary of state in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

400.009-502. CONTENTS OF FINANCING STATEMENT — RECORD OF MORTGAGE AS FINANCING STATEMENT — TIME OF FILING FINANCIAL STATEMENT. — (a) Subject to subsection (b), a financing statement is sufficient only if it:

- (1) Provides the name of the debtor;
 - (2) Provides the name of the secured party or a representative of the secured party;
- and

- (3) Indicates the collateral covered by the financing statement.

(b) Except as otherwise provided in section 400.9-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

- (1) Indicate that it covers this type of collateral;
- (2) Indicate that it is to be filed for record in the real property records;
- (3) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
- (4) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (1) The record indicates the goods or accounts that it covers;
 - (2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
 - (3) The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and
 - (4) The record is duly recorded.
- (d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

400.009-503. NAME OF DEBTOR AND SECURED PARTY. — (a) A financing statement sufficiently provides the name of the debtor:

(1) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(2) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(3) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(A) Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

(B) Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(4) In other cases:

(A) If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

(B) If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

- (1) A trade name or other name of the debtor; or
- (2) Unless required under subsection (a)(4)(B), names of partners, members, associates, or other persons comprising the debtor.
- (c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.
- (d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.
- (e) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

400.009-504. INDICATION OF COLLATERAL. — A financing statement sufficiently indicates the collateral that it covers only if the financing statement provides:

- (1) A description of the collateral pursuant to section 400.9-108; or
- (2) An indication that the financing statement covers all assets or all personal property.

400.009-505. FILING AND COMPLIANCE WITH OTHER STATUTES AND TREATIES FOR CONSIGNMENTS, LEASES, OTHER BAILMENTS, AND OTHER TRANSACTIONS. — (a) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in section 400.9-311(a), using the terms "consignor", "consignee", "lessor", "lessee", "bailor", "bailee", "licensor", "licensee", "owner", "registered owner", "buyer", "seller", or words of similar import, instead of the terms "secured party" and "debtor".

(b) This part applies to the filing of a financing statement under subsection (a) and, as appropriate, to compliance that is equivalent to filing a financing statement under section 400.9-311(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

400.009-506. EFFECT OF ERRORS OR OMISSIONS. — (a) A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Except as otherwise provided in subsection (c), a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 400.9-503(a) is seriously misleading.

(c) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 400.9-503(a), the name provided does not make the financing statement seriously misleading.

(d) For purposes of section 400.9-508(b), the "debtor's correct name" in subsection (c) means the correct name of the new debtor.

400.009-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT. — (a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) and section 400.9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the

information provided in the financing statement becomes seriously misleading under section 400.9-506.

(c) If a debtor so changes its name that a filed financing statement becomes seriously misleading under section 400.9-506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the change; and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the change.

400.009-508. EFFECTIVENESS OF FINANCING STATEMENT IF NEW DEBTOR BECOMES BOUND BY SECURITY AGREEMENT. — (a) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(b) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) to be seriously misleading under section 400.9-506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under section 400.9-203(d); and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four months after the new debtor becomes bound under section 400.9-203(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under section 400.9-507(a).

400.009-509. PERSONS ENTITLED TO FILE A RECORD. — (a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in an authenticated record; or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under section 400.9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 400.9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(d) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (c).

400.009-510. EFFECTIVENESS OF FILED RECORD. — (a) A filed record is effective only to the extent that it was filed by a person that may file it under section 400.9-509.

(b) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(c) A continuation statement that is not filed within the six-month period prescribed by section 400.9-515(d) is ineffective.

400.009-511. SECURED PARTY OF RECORD. — (a) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under section 400.9-514(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under section 400.9-514(b), the assignee named in the amendment is a secured party of record.

(c) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

400.009-512. AMENDMENT OF FINANCING STATEMENT. — (a) Subject to section 400.9-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e), otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) Identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) If the amendment relates to an initial financing statement filed or recorded in a filing office described in section 400.9-501(a)(1), provides the information specified in section 400.9-502(b).

(b) Except as otherwise provided in section 400.9-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) An amendment is ineffective to the extent it:

(1) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

400.009-513. TERMINATION STATEMENT. — (a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) The debtor did not authorize the filing of the initial financing statement.

(b) To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) If earlier, within twenty days after the secured party receives an authenticated demand from a debtor.

(c) In cases not governed by subsection (a), within twenty days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) The debtor did not authorize the filing of the initial financing statement.

(d) Except as otherwise provided in section 400.9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 400.9-510, for purposes of sections 400.9-519(g), 400.9-522(a), and 400.9-523(c), upon the filing of a termination statement with the filing office, a financing statement indicating that the debtor is a transmitting utility to which the termination statement relates ceases to be effective.

400.009-514. ASSIGNMENT OF POWERS OF SECURED PARTY OF RECORD. — (a) Except as otherwise provided in subsection (c), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) Except as otherwise provided in subsection (c), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(1) Identifies, by its file number, the initial financing statement to which it relates;

(2) Provides the name of the assignor; and

(3) Provides the name and mailing address of the assignee.

(c) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under section 400.9-502(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than chapter 400.

400.009-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT — EFFECT OF LAPSED FINANCING STATEMENT. — (a) Except as otherwise provided in subsections (b), (e), (f), and (g), a filed financing statement is effective for a period of five years after the date of filing.

(b) Except as otherwise provided in subsections (e), (f), and (g), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of thirty years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or

agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection (a) or the thirty-year period specified in subsection (b), whichever is applicable.

(e) Except as otherwise provided in section 400.9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection (c), unless, before the lapse, another continuation statement is filed pursuant to subsection (d). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 400.9-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

400.009-516. WHAT CONSTITUTES FILING — EFFECTIVENESS OF FILING. — (a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

(A) In the case of an initial financing statement, the record does not provide a name for the debtor;

(B) In the case of an amendment or correction statement, the record:

(i) Does not identify the initial financing statement as required by section 400.9-512 or 400.9-518, as applicable; or

(ii) Identifies an initial financing statement whose effectiveness has lapsed under section 400.9-515;

(C) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) In the case of a record filed or recorded in the filing office described in section 400.9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) Provide a mailing address for the debtor;

(B) Indicate whether the debtor is an individual or an organization; or

(C) If the financing statement indicates that the debtor is an organization, provide:

- (i) A type of organization for the debtor;
 - (ii) A jurisdiction of organization for the debtor; or
 - (iii) An organizational identification number for the debtor or indicate that the debtor has none;
- (6) In the case of an assignment reflected in an initial financing statement under section 400.9-514(a) or an amendment filed under section 400.9-514(b), the record does not provide a name and mailing address for the assignee; or
- (7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by section 400.9-515(d).
- (c) For purposes of subsection (b):
- (1) A record does not provide information if the filing office is unable to read or decipher the information; and
 - (2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 400.9-512, 400.9-514 or 400.9-518, is an initial financing statement.
- (d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

400.009-517. EFFECT OF INDEXING ERRORS. — The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

- 400.009-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD.** —
- (a) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.
 - (b) A correction statement must:
 - (1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
 - (2) Indicate that it is a correction statement; and
 - (3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.
 - (c) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

- 400.009-519. NUMBERING, MAINTAINING, AND INDEXING RECORDS — COMMUNICATING INFORMATION PROVIDED IN RECORDS.** — (a) For each record filed in a filing office, the filing office shall:
- (1) Assign a unique number to the filed record;
 - (2) Create a record that bears the number assigned to the filed record and the date and time of filing;
 - (3) Maintain the filed record for public inspection; and
 - (4) Index the filed record in accordance with subsections (c), (d), and (e).
- (b) A file number assigned after January 1, 2003, must include a digit that:
- (1) Is mathematically derived from or related to the other digits of the file number; and
 - (2) Enables the filing office to detect whether a number communicated as the file number includes a single-digit or transpositional error.
- (c) Except as otherwise provided in subsections (d) and (e), the filing office shall:

(1) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(2) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it:

(1) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) To the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under section 400.9-514(a) or an amendment filed under section 400.9-514(b):

(1) Under the name of the assignor as grantor; and

(2) To the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) The filing office shall maintain a capability:

(1) To retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under section 400.9-515 with respect to all secured parties of record.

(h) The filing office shall perform the acts required by subsections (a) through (e) at the time and in the manner prescribed by filing-office rule, but after January 1, 2003, not later than three business days after the filing office receives the record in question.

400.009-520. ACCEPTANCE AND REFUSAL TO ACCEPT RECORD. — (a) A filing office shall refuse to accept a record for filing for a reason set forth in section 400.9-516(b) and may refuse to accept a record for filing only for a reason set forth in section 400.9-516(b).

(b) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule in no event more than three business days after the filing office receives the record.

(c) A filed financing statement satisfying section 400.9-502(a) and (b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a). However, section 400.9-338 applies to a filed financing statement providing information described in section 400.9- 516(b)(5) which is incorrect at the time the financing statement is filed.

(d) If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

400.009-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT. — Except for a reason set forth in section 400.9- 516(b), a filing office that accepts written records may not refuse to accept a written document for a filing authorized by this chapter, provided that the document conforms to a format:

- (1) Approved by the International Association of Corporate Administrators; or
- (2) Adopted by a rule promulgated by the secretary of state pursuant to section 400.9-526.

400.9-522. MAINTENANCE AND DESTRUCTION OF RECORDS. — (a) The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under section 400.9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a).

400.009-523. INFORMATION FROM FILING OFFICE — SALE OR LICENSE OF RECORDS. — (a) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 400.9-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) Note upon the copy the number assigned to the record pursuant to section 400.9-519(a)(1) and the date and time of the filing of the record; and

(2) Send the copy to the person.

(b) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) The information in the record;

(2) The number assigned to the record pursuant to section 400.9-519(a)(1); and

(3) The date and time of the filing of the record.

(c) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:

(A) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;

(B) Has not lapsed under section 400.9-515 with respect to all secured parties of record; and

(C) If the request so states, has lapsed under section 400.9-515 and a record of which is maintained by the filing office under section 400.9-522(a);

(2) The date and time of filing of each financing statement; and

(3) The information provided in each financing statement.

(d) In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a record that can be admitted into evidence in the courts of this state without extrinsic evidence of its authenticity.

(e) The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office rule, but after January 1, 2003, not later than three business days after the filing office receives the request.

(f) At least weekly, the filing office shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.

400.009-524. DELAY BY FILING OFFICE. — Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

400.009-525. FEES. — (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in section 400.9-502(c), is the amount specified in subsection (c), if applicable, plus:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the county employees' retirement fund established pursuant to section 50.1010, RSMo., provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in section 400.9-502(c) is the amount specified in subsection (c), if applicable, plus:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the county employees retirement fund established pursuant to section 50.1010, RSMo., provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(c) The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

(d) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) If the filing office is the secretary of state's office, then twenty-two dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the county employees' retirement fund established pursuant to section 50.1010, RSMo., provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) The secretary of state shall administer a special trust fund, which is hereby established, to be known as the "Uniform Commercial Code Transition Fee Trust Fund", and which shall be funded by seven dollars of each of the fees received and collected pursuant to subdivisions (a), (b) and (c) of this section on behalf of the county employees retirement fund established pursuant to section 50.1010, RSMo. or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund.

(1) The secretary of state shall keep accurate record of the moneys in the uniform commercial code transition fee trust fund allocated to each county and city not within a county on the basis of where such record, financing statement or other document would have been filed prior to the effective date of this act, and shall distribute the moneys pursuant to subdivision (2) of this subsection on that basis.

(2) The moneys in the uniform commercial code transition fee trust fund shall be distributed to the county employees retirement fund established pursuant to section 50.1010, RSMo. or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund

(3) The moneys in the uniform commercial code transition fee trust fund shall not be deemed to be state funds, provided, however that interest, if any, earned by the money in the trust fund shall be deposited into the general revenue fund in the state treasury.

400.009-526. FILING OFFICE RULES. — (a) The secretary of state shall have the authority to promulgate all rules necessary to the administration and enforcement of the provisions of this chapter. All rules shall be promulgated pursuant to the provisions of this section and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(b) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the secretary of state, so far as is consistent with the purposes, policies, and provisions of this article, in adopting, amending, and repealing filing-office rules, shall:

- (1) Consult with filing offices in other jurisdictions that enact substantially this part;
- (2) Consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and
- (3) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

400.009-527. DUTY TO REPORT. — The secretary of state shall report annually on or before February 1 to the governor, the president pro tempore of the senate and the speaker of the house of representatives on the operation of the filing office. The report must contain a statement of the extent to which:

- (1) The filing-office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part and the reasons for these variations; and
- (2) The filing-office rules are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

PART 6
DEFAULT

400.009-601. RIGHTS AFTER DEFAULT — JUDICIAL ENFORCEMENT — CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES. — (a) After default, a secured party has the rights provided in this part and, except as otherwise provided in section 400.9-602, those provided by agreement of the parties. A secured party:

(1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under section 400.9-104, 400.9-105, 400.9-106 or 400.9-107 has the rights and duties provided in section 400.9-207.

(c) The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in subsection (g) and section 400.9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) The date of perfection of the security interest or agricultural lien in the collateral;
or

(2) The date of filing a financing statement covering the collateral;

(3) Any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(g) Except as otherwise provided in section 400.9-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

400.009-602. WAIVER OF VARIANCE OF RIGHTS AND DUTIES. — Except as otherwise provided in section 400.9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, a secured party may not require the debtor or obligor to waive or vary the rules stated in the following listed sections:

(1) Section 400.9-207(b)(4)(C), which deals with use and operation of the collateral by the secured party;

(2) Section 400.9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Section 400.9-607(c), which deals with collection and enforcement of collateral;

(4) Sections 400.9-608(a) and 400.9-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Sections 400.9-608(a) and 400.9-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 400.9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Sections 400.9-610(b), 400.9-611, 400.9-613 and 400.9-614, which deal with disposition of collateral;

(8) Section 400.9-616, which deals with explanation of the calculation of a surplus or deficiency;

(9) Sections 400.9-620, 400.9-621 and 400.9-622, which deal with acceptance of collateral in satisfaction of obligation;

(10) Section 400.9-623, which deals with redemption of collateral;

(11) Section 400.9-624, which deals with permissible waivers; and

(12) Sections 400.9-625 and 400.9-626, which deal with the secured party's liability for failure to comply with this article.

400.009-603. AGREEMENT ON STANDARDS CONCERNING RIGHTS AND DUTIES. — (a) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in section 400.9-602 if the standards are not manifestly unreasonable.

(b) Subsection (a) does not apply to the duty under section 400.9-609 to refrain from breaching the peace.

400.009-604. PROCEDURE IF SECURITY AGREEMENT COVERS REAL PROPERTY OR FIXTURES. — (a) If a security agreement covers both personal and real property, a secured party may proceed:

(1) Under this part as to the personal property without prejudicing any rights with respect to the real property; or

(2) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(b) Subject to subsection (c), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(1) Under this part; or

(2) In accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(c) Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

400.009-605. UNKNOWN DEBTOR OR SECONDARY OBLIGOR. — A secured party does not owe a duty based on its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

(A) That the person is a debtor or obligor;

(B) The identity of the person; and

(C) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) That the person is a debtor; and

(B) The identity of the person.

400.009-606. TIME OF DEFAULT FOR AGRICULTURAL LIEN. — For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party

becomes entitled to enforce the lien in accordance with the statute under which it was created.

400.009-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY. — (a) If so agreed, and in any event after default, a secured party:

(1) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) May take any proceeds to which the secured party is entitled under section 400.9-315;

(3) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) If it holds a security interest in a deposit account perfected by control under section 400.9-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) If it holds a security interest in a deposit account perfected by control under section 400.9-104(a)(2) or (3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) The secured party's sworn affidavit in recordable form stating that:

(A) A default has occurred; and

(B) The secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to subsection (c) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

400.009-608. APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. — (a) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under this section in the following order to:

(A) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(B) The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which

the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed;

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(C);

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under this section unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner;

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

400.009-609. SECURED PARTY'S RIGHT TO TAKE POSSESSION AFTER DEFAULT. — (a) After default, a secured party:

(1) May take possession of the collateral; and
(2) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under section 400.9-610.

(b) A secured party may proceed under subsection (a):
(1) Pursuant to judicial process; or
(2) Without judicial process, if it proceeds without breach of the peace.
(c) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

400.009-610. DISPOSITION OF COLLATERAL AFTER DEFAULT. — (a) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) A secured party may purchase collateral:
(1) At a public disposition; or
(2) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) A secured party may disclaim or modify warranties under subsection (d):
(1) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) A record is sufficient to disclaim warranties under subsection (e) if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

400.009-611. NOTIFICATION BEFORE DISPOSITION OF COLLATERAL. — (a) In this section, "notification date" means the earlier of the date on which:

(1) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) The debtor and any secondary obligor waive the right to notification.

(b) Except as otherwise provided in subsection (d), a secured party that disposes of collateral under section 400.9-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) To comply with subsection (b), the secured party shall send an authenticated notification of disposition to:

(1) The debtor;

(2) Any secondary obligor; and

(3) If the collateral is other than consumer goods:

(A) Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) Any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) Identified the collateral;

(ii) Was indexed under the debtor's name as of that date; and

(iii) Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) Any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 400.9-311(a).

(d) Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) A secured party complies with the requirement for notification prescribed by subsection (c)(3)(B) if:

(1) Not later than twenty days or earlier than thirty days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

(2) Before the notification date, the secured party:

(A) Did not receive a response to the request for information; or

(B) Received a response to the request for information and sent an authenticated notification of disposition to each secured party named in that response whose financing statement covered the collateral.

400.009-612. TIMELINESS OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL. —

(a) Except as otherwise provided in subsection (b), whether a notification is sent within a reasonable time is a question of fact.

(b) In a transaction other than a consumer transaction, a notification of disposition sent after default and ten days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

400.009-613. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL: GENERAL. — Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) Describes the debtor and the secured party;

(B) Describes the collateral that is the subject of the intended disposition;

(C) States the method of intended disposition;

(D) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) States the time and place of a public sale or the time after which any other disposition is to be made;

(2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) are nevertheless sufficient is a question of fact;

(3) The contents of a notification providing substantially the information specified in paragraph (1) are sufficient, even if the notification includes:

(A) Information not specified by that paragraph; or

(B) Minor errors that are not seriously misleading;

(4) A particular phrasing of the notification is not required;

(5) The following form of notification and the form appearing in section 400.9-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: *(Name of debtor, obligor, or other person to which the notification is sent)*

From: *(Name, address, and telephone number of secured party)*

Name of Debtor(s): *(Include only if debtor(s) are not an addressee)*
(For a public disposition:)

We will sell (or lease or license, as applicable) the *(describe collateral)*
(to the highest qualified bidder) in public as follows:

Day and Date: _____

Time: _____

Place: _____

(For a private disposition:)

We will sell (or lease or license, as applicable) the *(describe collateral)* privately
sometime after *(day and date)*.

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell (or lease or license, as applicable) (for a charge of \$ _____).
You may request an accounting by calling us at *(telephone number)*

(End of Form)

400.009-614. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL: CONSUMER GOODS TRANSACTION. — In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) The information specified in section 400.9-613(1);

(B) A description of any liability for a deficiency of the person to which the notification is sent;

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under section 400.9-623 is available; and

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available;

(2) A particular phrasing of the notification is not required;

(3) The following form of notification, when completed, provides sufficient information:

(Name and address of secured party)

(Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: *(Identification of Transaction)*

We have your *(describe collateral)*, because you broke promises in our agreement.

(For a public disposition:)

We will sell *(describe collateral)* at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: _____

Time: _____

Place: _____

You may attend the sale and bring bidders if you want.

(For a private disposition:)

We will sell *(describe collateral)* at private sale sometime after *(date)* . A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you *(will or will not, as applicable)* still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at *(telephone number)*.

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at *(telephone number)* (or write us at *(secured party's address)*) and request a written explanation. (We will charge you \$ _____ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.)

If you need more information about the sale call us at *(telephone number)* (or write us at *(secured party's address)*). We are sending this notice to the following other people who have an interest in *(describe collateral)* or who owe money under your agreement:

(Names of all other debtors and obligors, if any)

(End of Form)

(4) A notification in the form of paragraph (3) is sufficient, even if additional information appears at the end of the form;

(5) A notification in the form of paragraph (3) is sufficient, even if it includes errors in information not required by paragraph (1), unless the error is misleading with respect to rights arising under this article;

(6) If a notification under this section is not in the form of paragraph (3), law other than this article determines the effect of including information not required by paragraph (1).

400.009-615. APPLICATION OF PROCEEDS OF DISPOSITION — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. — (a) A secured party shall apply or pay over for application the cash proceeds of disposition in the following order to:

(1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(B) In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under this section unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) Unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) The obligor is liable for any deficiency.

(e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) The obligor is not liable for any deficiency.

(f) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) A secured party that receives cash proceeds of a disposition in good faith and without notice that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

400.009-616. EXPLANATION OF CALCULATION OF SURPLUS OR DEFICIENCY. — (a) In this section:

(1) "Explanation" means a writing that:

(A) States the amount of the surplus or deficiency;

(B) Provides an explanation in accordance with subsection (c) of how the secured party calculated the surplus or deficiency;

(C) States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(D) Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) "Request" means a record:

(A) Authenticated by a debtor or consumer obligor;

(B) Requesting that the recipient provide an explanation; and

(C) Sent after disposition of the collateral under section 400.9-610.

(b) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under section 400.9-615, the secured party shall:

(1) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

(B) Within fourteen days after receipt of a request; or

(2) In the case of a consumer obligor who is liable for a deficiency, within fourteen days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) To comply with subsection (a)(1)(B), a writing must provide the following information in the following order:

(1) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) If the secured party takes or receives possession of the collateral after default, not more than thirty-five days before the secured party takes or receives possession; or

(B) If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five days before the disposition;

(2) The amount of proceeds of the disposition;

(3) The aggregate amount of the obligations after deducting the amount of proceeds;

(4) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (1); and

(6) The amount of the surplus or deficiency.

(d) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) is sufficient, even if it includes minor errors that are not seriously misleading.

(e) A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (b)(1). The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

400.009-617. RIGHTS OF TRANSFeree OF COLLATERAL. — (a) A secured party's disposition of collateral after default:

(1) Transfers to a transferee for value all of the debtor's rights in the collateral;

(2) Discharges the security interest under which the disposition is made; and

(3) Discharges any subordinate security interest or other subordinate lien.

(b) A transferee that acts in good faith takes free of the rights and interests described in subsection (a), even if the secured party fails to comply with this article or the requirements of any judicial proceeding.

(c) If a transferee does not take free of the rights and interests described in subsection (a), the transferee takes the collateral subject to:

(1) The debtor's rights in the collateral;

- (2) The security interest or agricultural lien under which the disposition is made; and
- (3) Any other security interest or other lien.

400.009-618. RIGHTS AND DUTIES OF CERTAIN SECONDARY OBLIGORS. — (a) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

- (1) Receives an assignment of a secured obligation from the secured party;
 - (2) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or
 - (3) Is subrogated to the rights of a secured party with respect to collateral.
- (b) An assignment, transfer, or subrogation described in subsection (a):
- (1) Is not a disposition of collateral under section 400.9-610; and
 - (2) Relieves the secured party of further duties under this article.

400.009-619. TRANSFER OF RECORD OR LEGAL TITLE. — (a) In this section, "transfer statement" means a record authenticated by a secured party stating:

- (1) That the debtor has defaulted in connection with an obligation secured by specified collateral;
- (2) That the secured party has exercised its post-default remedies with respect to the collateral;
- (3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and
- (4) The name and mailing address of the secured party, debtor, and transferee.

(b) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

- (1) Accept the transfer statement;
- (2) Promptly amend its records to reflect the transfer; and
- (3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) A transfer of the record or legal title to collateral to a secured party under subsection (b) or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

400.009-620. ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF OBLIGATION — COMPULSORY DISPOSITION OF COLLATERAL. — (a) Except as otherwise provided in subsection (g), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

- (1) The debtor consents to the acceptance under subsection (c);
- (2) The secured party does not receive, within the time set forth in subsection (d), a notification of objection to the proposal authenticated by:

(A) A person to which the secured party was required to send a proposal under section 400.9-621; or

(B) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) Subsection (e) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to section 400.9-624.

(b) A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) The conditions of subsection (a) are met.

(c) For purposes of this section:

(1) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(A) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) Does not receive a notification of objection authenticated by the debtor within twenty days after the proposal is sent.

(d) To be effective under subsection (a)(2), a notification of objection must be received by the secured party:

(1) In the case of a person to which the proposal was sent pursuant to section 400.9-621, within twenty days after notification was sent to that person; and

(2) In other cases:

(A) Within twenty days after the last notification was sent pursuant to section 400.9-621; or

(B) If a notification was not sent, before the debtor consents to the acceptance under subsection (c).

(e) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to section 400.9-610 within the time specified in subsection (f) if:

(1) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) To comply with subsection (e), the secured party shall dispose of the collateral:

(1) Within ninety days after taking possession; or

(2) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

400.009-621. NOTIFICATION OF PROPOSAL TO ACCEPT COLLATERAL. — (a) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) Any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) Any other secured party or lienholder that, ten days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) Identified the collateral;

(B) Was indexed under the debtor's name as of that date; and

(C) Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) Any other secured party that, ten days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 400.9-311(a).

(b) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a).

400.009-622. EFFECT OF ACCEPTANCE OF COLLATERAL. — (a) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

- (1) Discharges the obligation to the extent consented to by the debtor;
- (2) Transfers to the secured party all of a debtor's rights in the collateral;
- (3) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and
- (4) Terminates any other subordinate interest.

(b) A subordinate interest is discharged or terminated under subsection (a), even if the secured party fails to comply with this article.

400.009-623. RIGHT TO REDEEM COLLATERAL. — (a) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

- (b) To redeem collateral, a person shall tender:
- (1) Fulfillment of all obligations secured by the collateral; and
 - (2) The reasonable expenses and attorney's fees described in section 400.9-615(a)(1).
- (c) A redemption may occur at any time before a secured party:
- (1) Has collected collateral under section 400.9-607;
 - (2) Has disposed of collateral or entered into a contract for its disposition under section 400.9-610; or
 - (3) Has accepted collateral in full or partial satisfaction of the obligation it secures under section 400.9-622.

400.009-624. WAIVER. — (a) A debtor or secondary obligor may waive the right to notification of disposition of collateral under section 400.9-611 only by an agreement to that effect entered into and authenticated after default.

(b) A debtor may waive the right to require disposition of collateral under section 400.9-620(e) only by an agreement to that effect entered into and authenticated after default.

(c) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under section 400.9-623 only by an agreement to that effect entered into and authenticated after default.

400.009-625. REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH ARTICLE. — (a) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply with a request under section 400.9-210 may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Except as otherwise provided in section 400.9-628:

(1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that

failure in any event an amount not less than the credit service charge plus ten percent of the principal amount of the obligation or the time-price differential plus ten percent of the cash price.

(d) A debtor whose deficiency is eliminated under section 400.9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under section 400.9-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars in each case from a person that:

- (1) Fails to comply with section 400.9-208;
- (2) Fails to comply with section 400.9-209;
- (3) Files a record that the person is not entitled to file under section 400.9-509(a);
- (4) Fails to cause the secured party of record to file or send a termination statement as required by section 400.9-513(a) or (c);
- (5) Fails to comply with section 400.9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
- (6) Fails to comply with section 400.9-616(b)(2).

(f) A debtor or consumer obligor may recover damages under subsection (b) and, in addition, five hundred dollars in each case from a person that, without reasonable cause, fails to comply with a request under section 400.9-210. A recipient of a request under section 400.9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section 400.9-210, the secured party may claim a security interest only as shown in the statement included in the request as against a person that is reasonably misled by the failure.

(h) This section shall apply on and after January 1, 2003.

400.9-626. ACTION IN WHICH DEFICIENCY OR SURPLUS IS IN ISSUE. — (a) In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in section 400.9-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

- (A) The proceeds of the collection, enforcement, disposition, or acceptance; or
- (B) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of paragraph (3)(B), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under section 400.9-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(b) The limitation of the rules in subsection (a) to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

(c) This section shall apply on and after January 1, 2003.

400.009-627. DETERMINATION OF WHETHER CONDUCT WAS COMMERCIALY REASONABLE. — (a) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(b) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

- (1) In the usual manner on any recognized market;
- (2) At the price current in any recognized market at the time of the disposition; or
- (3) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

- (1) In a judicial proceeding;
- (2) By a bona fide creditors' committee;
- (3) By a representative of creditors; or
- (4) By an assignee for the benefit of creditors.

(d) Approval under subsection (c) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

400.009-628. NONLIABILITY AND LIMITATION ON LIABILITY OF SECURED PARTY — LIABILITY OF SECONDARY OBLIGOR. — (a) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(2) The secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(b) A secured party is not liable because of its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

- (A) That the person is a debtor or obligor;
- (B) The identity of the person; and
- (C) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

- (A) That the person is a debtor; and
- (B) The identity of the person.

(c) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) A secured party is not liable under section 400.9-625(c)(2) more than once with respect to any one secured obligation.

400.009-629. DISPOSITION ORDERED FOR NONCOMPLIANCE OF SECURED PARTY — TERMINATION DATE. — (1) If it is established that the secured party is not proceeding in accordance with the provisions of this part disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this part. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten percent of the principal amount of the debt or the time price differential plus ten percent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.

(3) The provisions of this section shall terminate on December 31, 2002.

PART 7 TRANSITION

400.009-701. DEFINITION OF THIS ACT. — For the purposes of this section and sections 400.9-702 to 400.9-708, "this act" shall refer to sections 400.9-101 to 400.9-628.

400.009-702. SAVINGS CLAUSE. — (a) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before the effective date of this act.

(b) Except as otherwise provided in subsection (c) and sections 400.9-703 through 400.9-708:

(1) Transactions and liens that were not governed by former article 9, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(2) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) This act does not affect an action, case, or proceeding commenced before this act takes effect.

400.009-703. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE. — (a) A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(b) Except as otherwise provided in section 400.9-705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

- (1) Is a perfected security interest for one year after this act takes effect;
- (2) Remains enforceable thereafter only if the security interest becomes enforceable under section 400.9-203 before the year expires; and
- (3) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

400.009-704. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE. — A security interest that is enforceable immediately before this act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

- (1) Remains an enforceable security interest for one year after this act takes effect;
- (2) Remains enforceable thereafter if the security interest becomes enforceable under section 400.9-203 when this act takes effect or within one year thereafter; and
- (3) Becomes perfected:
 - (A) Without further action, when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or
 - (B) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

400.009-705. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. — (a) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within one year after this act takes effect. An attached security interest becomes unperfected one year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(b) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(c) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section 400.9-103. However, except as otherwise provided in subsections (d) and (e) and section 400.9-706, the financing statement ceases to be effective at the earlier of:

- (1) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(2) June 30, 2006.

(d) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in Part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(e) Subsection (c)(2) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section 400.9-103 only to the extent that Part 3 provides that the law of a jurisdiction other than jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of Part 5 for an initial financing statement.

400.009-706. WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT. — (a) The filing of an initial financing statement in the office specified in section 400.9-501 continues the effectiveness of a financing statement filed before this act takes effect if:

(1) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(2) The pre-effective-date financing statement was filed in an office in another state or another office in this state; and

(3) The initial financing statement satisfies subsection (c).

(b) The filing of an initial financing statement under subsection (a) continues the effectiveness of the pre-effective-date financing statement:

(1) If the initial financing statement is filed before this act takes effect, for the period provided in former section 400.9-403 with respect to a financing statement; and

(2) If the initial financing statement is filed after this act takes effect, for the period provided in section 400.9-515 with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a), an initial financing statement must:

(1) Satisfy the requirements of Part 5 for an initial financing statement;

(2) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) Indicate that the pre-effective-date financing statement remains effective.

400.009-707. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT. — (a) In this section, "pre-effective-date financing statement" means a financing statement filed before this act takes effect.

(b) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d) of this section, if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this act takes effect only if:

(1) The pre-effective-date financing statement and an amendment are filed in the office specified in section 400.9- 501;

(2) An amendment is filed in the office specified in section 400.9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 400.9-706(c); or

(3) An initial financing statement that provides the information as amended and satisfies section 400.9-706(c) is filed in the office specified in section 400.9-501.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under section 400.9-705(d) and (f) or section 400.9-706.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies section 400.9-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 as the office in which to file a financing statement.

400.009-708. PERSONS ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT. — A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(A) To continue the effectiveness of a financing statement filed before this act takes effect; or

(B) To perfect or continue the perfection of a security interest.

400.009-709. PRIORITY. — (a) This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, former article 9 determines priority.

(b) For purposes of section 400.9-322(a), the priority of a security interest that becomes enforceable under section 400.9-203 of this act dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under former article 9. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

400.009-710. LOCAL FILING OFFICE TO MAINTAIN FORMER ARTICLE 9 RECORDS. — (a) In this section:

(1) "Former article 9 records" means:

a. Financing statements and other records that have been filed in the local-filing office before the effective date of this act, and that are, or upon processing and indexing will be, reflected in the index maintained, as of the effective date of this act, by the local-filing office for financing statements and other records filed in the local-filing office before the effective date of this act; and

b. The index as of the effective date of this act. The term does not include records presented to a local-filing office for filing after the effective date of this act, whether or not the records relate to financing statements filed in the local-filing office before the effective date of this act.

(2) "Local-filing office" means a filing office, other than the office of the secretary of state, that is designated as the proper place to file a financing statement under 400.9-401 of former article 9. The term applies only with respect to a record that covers a type of

collateral as to which the filing office is designated in that section as the proper place to file.

(b) Until June 30, 2006, each local-filing office must maintain all former article 9 records in accordance with former article 9. A former article 9 record that is not reflected on the index maintained on the effective date of this act, by the local-filing office must be processed and indexed, and reflected on the index as of the effective date of this act, as soon as practicable but in any event no later than thirty days after the effective date of this act.

(c) Until at least June 30, 2008, each local-filing office must respond to requests for information with respect to former article 9 records relating to a debtor and issue certificates, in accordance with former article 9. The fees charged for responding to requests for information relating to a debtor and issuing certificates with respect to former article 9 records must be the fees in effect under former article 9 on the effective date of this act.

(d) After June 30, 2006, each local-filing office may remove and destroy, in accordance with any then applicable record retention law of this state, all former article 9 records, including the related index.

(e) This section does not apply, with respect to financing statements and other records, to a filing office in which mortgages or records of mortgages on real property are required to be filed or recorded, if:

- (1) The collateral is timber to be cut or as-extracted collateral; or
- (2) The record is or relates to a financing statement filed as a fixture and the collateral is goods that are or are to become fixtures.

417.018. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

431.202. EMPLOYMENT COVENANTS ENFORCEABLE, WHEN — REASONABILITY PRESUMPTION. — 1. A reasonable covenant in writing promising not to solicit, recruit, hire or otherwise interfere with the employment of one or more employees shall be enforceable and not a restraint of trade pursuant to subsection 1 of section 416.031, RSMo, if:

(1) Between two or more corporations or other business entities seeking to preserve workforce stability (which shall be deemed to be among the protectable interests of each corporation or business entity) during, and for a reasonable period following, negotiations between such corporations or entities for the acquisition of all or a part of one or more of such corporations or entities;

(2) Between two or more corporations or business entities engaged in a joint venture or other legally permissible business arrangement where such covenant seeks to protect against possible misuse of confidential or trade secret business information shared or to be shared between or among such corporations or entities;

(3) Between an employer and one or more employees seeking on the part of the employer to protect:

- (a) Confidential or trade secret business information; or
- (b) Customer or supplier relationships, goodwill or loyalty, which shall be deemed to be among the protectable interests of the employer; or

(4) Between an employer and one or more employees, notwithstanding the absence of the protectable interests described in subdivision (3) of this subsection, so long as such covenant does not continue for more than one year following the employee's employment; provided, however, that this subdivision shall not apply to covenants signed by employees who provide only secretarial or clerical services.

2. Whether a covenant covered by this section is reasonable shall be determined based upon the facts and circumstances pertaining to such covenant, but a covenant covered exclusively by subdivision (3) or (4) of subsection 1 of this section shall be conclusively presumed to be reasonable if its post-employment duration is no more than one year.

3. Nothing in this subdivision (3) or (4) of subsection 1 of this section is intended to create, or to affect the validity or enforceability of, employer-employee covenants not to compete.

4. Nothing in this section shall preclude a covenant described in subsection 1 of this section from being enforceable in circumstances other than those described in subdivisions (1) to (4) of subsection 1 of this section, where such covenant is reasonably necessary to protect a party's legally permissible business interests.

5. Nothing in this section shall be construed to limit an employee's ability to seek or accept employment with another employer immediately upon, or at any time subsequent to, termination of employment, whether said termination was voluntary or non-voluntary.

6. This section shall have retrospective as well as prospective effect.

SECTION 1. ELECTRONIC FACSIMILE FILINGS FOR DOCUMENTS FILED WITH SECRETARY OF STATE'S OFFICE, RULEMAKING AUTHORITY. — The Secretary of State may adopt rules to authorize the electronic facsimile filing of any document filed with the Secretary under any provision administered by the Secretary. The rules may set forth standards for the acceptance of a form of signature other than the proper handwriting of a person. A signature or document filed by electronic facsimile in accordance with rules promulgated pursuant to this section shall be prima facie evidence for all purposes that the document actually was signed by the person whose signature appears on the facsimile.

[59.040. COMBINATION OR SEPARATION OF OFFICE — ELECTION — FORM OF BALLOT (THIRD CLASS COUNTIES). — 1. In a county of the third class, the question of combining the offices of circuit clerk and recorder or separating the offices may be submitted to the voters of the county by the county commission and shall be submitted by the county commission upon the petition of voters who comprise at least eight percent of the voters of the county as determined by the total vote for governor at the last preceding general election at which a governor was elected.

2. If the two offices are separate and the question is to combine the two offices, the question shall be submitted in substantially the following form:

Shall the offices of the circuit clerk and recorder in (name of county) county be combined?

3. If the two offices are combined and the question is to separate the two offices, the question shall be submitted in substantially the following form:

Official Ballot

Shall the offices of circuit clerk and recorder in(name of county) county be separated?

4. The submission of the question provided for in this section may be made at the November election in 1948, or any fourth year thereafter. Any consolidation or separation brought about as a result of the provisions of this section shall not become effective until the expiration of the term of office of the officers affected.]

[59.050. SEPARATION OF OFFICES OF CIRCUIT CLERK AND COUNTY RECORDER, WHEN — ELECTIONS PRIOR TO BECOMING SECOND CLASS COUNTY. — In any county of the third class where the offices of the clerk of the circuit court and the recorder of deeds are combined and which will become a county of the second class on the first day of January next following the general election at which the circuit clerk ex officio recorder of deeds would normally be elected, the combined office shall not be filled at that general election, but candidates may file

and stand for election for the separate offices of clerk of the circuit court and recorder of deeds and the winner of the election for each office shall assume his separate duties on the first day of January next following the election for the full four-year term of office.]

[347.189. REQUIRES FILING PROPERTY CONTROL AFFIDAVIT IN CERTAIN CITIES, INCLUDING KANSAS CITY. — Any limited liability company that owns and rents or leases real property located within any home rule city with a population of more than four hundred thousand inhabitants which is located in more than one county, shall file with that city's clerk an affidavit listing the name and address of at least one person, who has management control and responsibility for the real property owned and leased or rented by the limited liability company.]

[351.440. MERGER OR CONSOLIDATION SHALL BE EFFECTED, WHEN. — Upon the issuance of the certificate of merger or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected.]

[400.009-101. SHORT TITLE. — This article shall be known and may be cited as "Uniform Commercial Code — Secured Transactions".]

[400.009-102. DEFINITIONS AND INDEX OF DEFINITIONS. — (1) Except as otherwise provided in section 400.9-104 on excluded transactions, this article applies

(a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel papers, or accounts; and also

(b) to any sale of accounts or chattel paper.

(2) This article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This article does not apply to statutory liens except as provided in section 400.9-310.

(3) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.]

[400.009-103. PURCHASE-MONEY SECURITY INTEREST — APPLICATION OF PAYMENTS — BURDEN OF ESTABLISHING. — (1) Documents, instruments, letters of credit, and ordinary goods.

(a) This subsection applies to documents and instruments, rights to proceeds of written letters of credit, and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or non-perfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or non-perfection of the security interest from the time it attaches until thirty days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security

interest remains perfected, but if action is required by Part 3 of this article to perfect the security interest,

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) for the purpose of priority over a buyer of consumer goods (subsection (2) of section 400.9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or non-perfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subsection (1).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or non-perfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by

notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper.

The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals.

Perfection and the effect of perfection or non-perfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead or governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Investment property.

(a) This subsection applies to investment property.

(b) Except as otherwise provided in paragraph (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in section 400.8-110(d).

(d) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in section 400.8-110(e).

(e) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(i) If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(ii) If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (i), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(iii) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii), the commodity intermediary's

jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

(iv) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii) and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (iii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located.]

[400.009-104. CONTROL OF DEPOSIT ACCOUNT. — This article does not apply

(a) to a security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(b) to a landlord's lien; or

(c) to a lien given by statute or other rule of law for services or materials except as provided in section 400.9-310 on priority of such liens; or

(d) to a transfer of a claim for wages, salary or other compensation of an employee; or

(e) to a transfer by a government or governmental subdivision or agency; or

(f) to a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to an assignee who is also to do the performance under the contract or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness; or

(g) to a transfer of an interest or claim in or under any policy of insurance, except as provided with respect to proceeds (section 400.9-306) and priorities and proceeds (section 400.9-312); or

(h) to a right represented by a judgment (other than a judgment taken on a right to payment which was collateral); or

(i) to any right of setoff; or

(j) except to the extent that provision is made for fixtures in section 400.9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(k) to a transfer in whole or in part of any claim arising out of tort; or

(l) to a transfer of an interest in any deposit account (subsection (1) of section 400.9-105), except as provided with respect to proceeds (section 400.9-306) and priorities and proceeds (section 400.9-312); or

(m) to a transfer of an interest in a letter of credit other than the rights to proceeds of a written letter of credit.]

[400.009-105. CONTROL OF ELECTRONIC CHATTEL PAPER. — (1) In this Article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of article 1 (section 400.1-201), and a receipt of the kind described in subsection (2) of section 400.7-201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (section 400.9-313), but does not include money, documents, instruments, investment property, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(i) "Instrument" means a negotiable instrument (defined in section 400.3-104), or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. The term does not include investment property;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a deed of trust on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service;

(2) Other definitions applying to this Article and the sections in which they appear are:

"Account". Section 400.9-106.

"Attach". Section 400.9-203.

"Commodity contract". Section 400.9-115.

"Commodity customer". Section 400.9-115.

"Commodity intermediary". Section 400.9-115.

"Construction mortgage". Section 400.9-313(1).

"Consumer goods". Section 400.9-109(1).

"Control". Section 400.9-115.

"Equipment". Section 400.9-109(2).

"Farm products". Section 400.9-109(3).

"Fixture". Section 400.9-313.

"Fixture filing". Section 400.9-313.
"General intangibles". Section 400.9-106.
"Inventory". Section 400.9-109(4).
"Investment property". Section 400.9-115.
"Letter of credit". Section 400.5-102.
"Lien creditor". Section 400.9-301(3).
"Proceeds". Section 400.9-306(1).
"Purchase money security interest". Section 400.9-107.
"Rights to proceeds of a written letter of credit". Section 400.5- 114(a).
"United States". Section 400.9-103.

(3) The following definitions in other articles apply to this article:

"Broker". Section 400.8-102.
"Certificated security". Section 400.8-102.
"Check". Section 400.3-104.
"Clearing corporation". Section 400.8-102.
"Contract for sale". Section 400.2-106.
"Control". Section 400.8-106.
"Delivery". Section 400.8-301.
"Entitlement holder". Section 400.8-102.
"Financial asset". Section 400.8-102.
"Holder in due course". Section 400.3-302.
"Note". Section 400.3-104.
"Sale". Section 400.2-106.
"Securities intermediary". Section 400.8-102.
"Security". Section 400.8-102.
"Security certificate". Section 400.8-102.
"Security entitlement". Section 400.8-102.
"Uncertificated security". Section 400.8-102.

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.]

[400.009-106. CONTROL OF INVESTMENT PROPERTY. — "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, investment property, instruments, rights to proceeds of written letters of credit, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.]

[400.009-107. CONTROL OF LETTER-OF-CREDIT-RIGHT. — A security interest is a "purchase money security interest" to the extent that it is

- (a) taken or retained by the seller of the collateral to secure all or part of its price; or
- (b) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.]

[400.009-108. SUFFICIENCY OF DESCRIPTION. — Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course

of his business or under a contract of purchase made pursuant to the security agreement within a reasonable time after new value is given.]

[400.009-109. SCOPE. — Goods are

(1) "Consumer goods" if they are used or bought for use primarily for personal, family or household purposes;

(2) "Equipment" if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a nonprofit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;

(3) "Farm products" if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, woolclip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;

(4) "Inventory" if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.]

[400.009-110. SECURITY INTERESTS ARISING UNDER ARTICLE 2 OR 2A. — For the purposes of this article any description of personal property or real estate is sufficient whether or not it is specific if it reasonably identifies what is described.]

[400.009-111. APPLICABILITY OF BULK TRANSFER LAWS. — The creation of a security interest is not a bulk transfer under article 6 (see section 400.6-103).]

[400.009-112. WHERE COLLATERAL IS NOT OWNED BY DEBTOR. — Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under section 400.9-502(2) or under section 400.9-504(1), and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor

(a) to receive statements under section 400.9-208;

(b) to receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under section 400.9-505;

(c) to redeem the collateral under section 400.9-506;

(d) to obtain injunctive or other relief under section 400.9-507(1); and

(e) to recover losses caused to him under section 400.9-208(2).]

[400.009-113. SECURITY INTERESTS ARISING UNDER ARTICLE ON SALES OR UNDER ARTICLE ON LEASES. — A security interest arising solely under the Article on Sales (Article 2) or the Article on Leases (Article 2A) is subject to the provisions of this Article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

(a) no security agreement is necessary to make the security interest enforceable; and

(b) no filing is required to perfect the security interest; and

(c) the rights of the secured party on default by the debtor are governed (i) by the Article on Sales (Article 2) in the case of a security interest arising solely under such Article or (ii) by the Article on Leases (Article 2A) in the case of a security interest arising solely under such Article.]

[400.009-114. CONSIGNMENT, PRIORITY OVER OTHER PARTIES, WHEN — NOTICE TO LIENHOLDER OF SALE. — (1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this article by paragraph (3)(c) of section 400.2-326 has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee, and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if

(a) the consignor complies with the filing provision of the article on sales with respect to consignments (paragraph (3)(c) of section 400.2-326) before the consignee receives possession of the goods; and

(b) the consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and

(c) the holder of the security interest receives the notification within five years before the consignee receives possession of the goods; and

(d) the notification states that the consignor expects to deliver goods on consignment to the consignee, describing the goods by item or type.

(2) In the case of a consignment which is not a security interest and in which the requirements of the preceding subsection have not been met, a person who delivers goods to another is subordinate to a person who would have a perfected security interest in the goods if they were the property of the debtor.

(3) A person who consigns consumer goods, except for motor vehicles, trailers, manufactured or mobile homes not for highway use, and any type of watercraft, as defined in chapter 306, RSMo, to a consignee to sell shall have the sole obligation to notify the lienholder of the goods to be sold, that such goods will be offered for sale on a certain date. At no time shall the consignee be held liable to the lienholder, providing the consignee sells in good faith and is acting only as the agent for the consignor.]

[400.009-115. INVESTMENT PROPERTY, DEFINITIONS — PERFECTION. — (1) In this article:

(a) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for commodity customers;

(b) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or other contract that, in each case, is:

(i) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or

(ii) Traded on a foreign commodity board of trade, exchange or market, and is carried on the books of a commodity intermediary for a commodity customer;

(c) "Commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books;

(d) "Commodity intermediary" means:

(i) A person who is registered as a futures commission merchant under the federal commodities laws; or

(ii) A person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws;

(e) "Control" with respect to a certificated security, uncertificated security, or security entitlement has the meaning specified in section 400.8-106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary has agreed that it will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest

in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account;

(f) "Investment property" means:

- (i) A security, whether certificated or uncertificated;
- (ii) A security entitlement;
- (iii) A securities account;
- (iv) A commodity contract; or
- (v) A commodity account.

(2) Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

(3) A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract, or commodity account whether it describes the collateral by those terms, or as investment property, or by description of the underlying security, financial asset, or commodity contract. A description of investment property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure, or by any other method, if the identity of the collateral is objectively determinable.

(4) Perfection of a security interest in investment property is governed by the following rules:

(a) A security interest in investment property may be perfected by control;

(b) Except as otherwise provided in paragraphs (c) and (d), a security interest in investment property may be perfected by filing;

(c) If the debtor is a broker or securities intermediary, a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest;

(d) If a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(5) Priority between conflicting security interests in the same investment property is governed by the following rules:

(a) A security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property;

(b) Except as otherwise provided in paragraphs (c) and (d), conflicting security interest of secured parties each of whom has control rank equally;

(c) Except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party;

(d) Except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party;

(e) Conflicting security interests granted by a broker, a securities intermediary, or a commodity intermediary which are perfected without control rank equally;

(f) In all other cases, priority between conflicting security interest in investment property is governed by section 400.9-312(5), (6), and (7). Section 400.9-312(4) does not apply to investment property.

(6) If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security interest, delivery suffices for perfection of the security interest, and the security interest has priority over a conflicting security interest perfected by means other than control, even if a necessary indorsement is lacking.]

[400.009-116. SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET. — (1) If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

(2) If a certificated security, or other financial asset represented by a writing which in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with such securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.]

[400.009-201. GENERAL EFFECTIVENESS OF SECURITY AGREEMENT. — Except as otherwise provided by this chapter a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this article validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto.]

[400.009-202. TITLE TO COLLATERAL IMMATERIAL. — Each provision of this article with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor.]

[400.009-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST — PROCEEDS — SUPPORTING OBLIGATIONS — FORMAL REQUISITES. — (1) Subject to the provisions of section 400.4-208 on the security interest of a collecting bank, sections 400.9-115 and 400.9-116 on security interests in investment property, and section 400.9-113 on a security interest arising under the article on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers timber to be cut, a description of the land concerned;

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by section 400.9-306.

(4) A transaction, although subject to this article, is also subject to sections 365.010 to 365.160, RSMo, and sections 408.100 to 408.562, RSMo, and in the case of conflict between the provisions of this article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.]

[400.009-204. AFTER-ACQUIRED PROPERTY — FUTURE ADVANCES. — (1) Except as provided in subsection (2), a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

(2) No security interest attaches under an after-acquired property clause to consumer goods other than accessions (section 400.9-314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment (subsection (1) of section 400.9-105).]

[400.009-205. USE OR DISPOSITION OF COLLATERAL PERMISSIBLE. — A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts or chattel paper, or to accept the return of goods or make repossessions or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.]

[400.009-206. SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET. — (1) Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that he will not assert against an assignee any claim or defense which he may have against the seller or lessor is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the article on commercial paper (article 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods the article on sales (article 2) governs the sale and any disclaimer, limitation or modification of the seller's warranties.]

[400.009-207. RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL. — (1) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Unless otherwise agreed, when collateral is in the secured party's possession

(a) reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) the risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage;

(c) the secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation;

(d) the secured party must keep the collateral identifiable but fungible collateral may be commingled;

(e) the secured party may repledge the collateral upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by his failure to meet any obligation imposed by the preceding subsections but does not lose his security interest.

(4) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value or pursuant to the order of a court of appropriate jurisdiction or, except in the case of consumer goods, in the manner and to the extent provided in the security agreement.]

[400.009-208. ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL. — (1) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(2) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security interest only as shown in the statement against persons misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding ten dollars for each additional statement furnished.]

[400.009-301. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS. — (1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

(a) persons entitled to priority under section 400.9-312;

(b) a person who becomes a lien creditor before the security interest is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts, general intangibles, and investment property, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within twenty days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.]

[400.009-302. LAW GOVERNING PERFECTION AND PRIORITY OF AGRICULTURAL LIENS.

— (1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under section 400.9-305;

(b) a security interest temporarily perfected in instruments, certificated securities, or documents without delivery under section 400.9-304 or in proceeds for a ten-day period under section 400.9-306;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 400.9-313;

(e) an assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) a security interest of a collecting bank (section 400.4-208) or in securities (section 400.8-321) or arising under the article on sales (see section 400.9-113) or covered in subsection (3) of this section;

(g) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(h) a security interest in investment property which is perfected without filing under section 400.9-115 or section 400.9-116.

(2) If a secured party assigns a perfected security interest, no filing under this article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this article is not necessary or effective to perfect a security interest in property subject to

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this article for filing of the security interests; or

(b) section 301.190, RSMo, or section 306.400, RSMo; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this article (part 4) apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of section 400.9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith, except as provided in section 400.9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty or governed by the provisions of the statute or treaty; in other respects the security interest is subject to this article.]

[400.009-303. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE. — (1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in sections 400.9-115, 400.9-302, 400.9-304, 400.9-305 and 400.9-306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under this article and is subsequently perfected in some other way under this article, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this article.]

[400.009-304. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNTS. — (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in the rights to proceeds of a written letter of credit can be perfected only by the secured party's taking possession of the letter of credit. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of section 400.9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments, certificated securities, or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument, a certificated security, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor:

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subsection (3) of section 400.9-312; or

(b) delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

(6) After the twenty-one day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this article.]

[400.009-305. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY. — A security interest in letters of credit and advices of credit (subsection (2)(a) of section 400.5-116), goods, instruments, money, negotiable documents, or chattel paper may be perfected by the secured party's taking possession of the collateral. A security interest in the right to proceeds of a written letter of credit may be perfected by the secured party's taking possession of the letter of credit. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and

continues only so long as possession is retained, unless otherwise specified in this article. The security interest may be otherwise perfected as provided in this article before or after the period of possession by the secured party.]

[400.009-306. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN LETTER-OF-CREDIT RIGHTS. — (1) "Proceeds" includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Any payments or distributions made with respect to investment property collateral are proceeds. Money, checks, deposit accounts and the like are "cash proceeds". All other proceeds are "non-cash proceeds".

(2) Except where this article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise provided the creditor agrees in writing, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

(a) a filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds;

(b) a filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds;

(c) the original collateral was investment property and the proceeds are identifiable cash proceeds; or

(d) the security interest in the proceeds is perfected before the expiration of the ten-day period. Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this article for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds:

(a) in identifiable non-cash proceeds and in separate deposit accounts containing only proceeds;

(b) in identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings;

(c) in identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings; and

(d) in all cash and deposit accounts of the debtor in which proceeds have been commingled with other funds, but the perfected security interest under this paragraph (d) is

(i) subject to any right of setoff; and

(ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c) of this subsection (4).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale, for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under section 400.9-308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.]

[400.009-307. LOCATION OF DEBTOR. — (1) A buyer in ordinary course of business (subsection (9) of section 400.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of five hundred dollars (other than fixtures, see section 400.9-313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.]

[400.009-308. WHEN SECURITY INTERESTS OR AGRICULTURE LIEN IS PERFECTED — CONTINUITY OF PERFECTION. — A purchaser of chattel paper or an instrument who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in the chattel paper or instrument

(a) which is perfected under section 400.9-304 (permissive filing and temporary perfection) or under section 400.9-306 (perfection as to proceeds) if he acts without knowledge that the specific paper or instrument is subject to a security interest; or

(b) which is claimed merely as proceeds of inventory subject to a security interest (section 400.9-306) even though he knows that the specific paper or instrument is subject to the security interest.]

[400.009-309. SECURITY INTEREST PERFECTED UPON ATTACHMENT. — Nothing in this article limits the rights of a holder in due course of a negotiable instrument (section 400.3-302) or a holder to whom a negotiable document of title has been duly negotiated (section 400.7-501) or a protected purchaser of a security (section 400.8-303) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this article does not constitute notice of the security interest to such holders or purchasers.]

[400.009-310. WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN — SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY. — When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise.]

[400.009-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES. — The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default.]

[400.009-312. PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER-OF-CREDIT RIGHTS, AND MONEY-PERFECTION BY PERMISSIVE FILING — TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION. — (1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: section 400.4-210, with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 400.9-103 on security interests related to other jurisdictions; section 400.9-114 on consignments; section 400.9-115 on security interests in investment property.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one-day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of section 400.9-304); and

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within twenty days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under section 400.9-115 or section 400.9-116 on investment property, the security interest has the same priority for the purposes of subsection (5) or section 400.9-115(5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.]

[400.009-313. WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING. — (1) In this section and in the provisions of part 4 of this article referring to fixture filing, unless the context otherwise requires

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subsection (5) of section 400.9-402;

(c) a mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this article in ordinary building materials incorporated into an improvement on land.

(3) This article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within ten days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) the security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) the fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this article; or

(d) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article.

(5) A security interest in a manufactured home as defined in section 700.010, RSMo, which has been perfected pursuant to sections 700.350 to 700.390, RSMo, has priority over the conflicting interest of an encumbrancer or owner of the real estate if the security agreement was made before the manufactured home was placed upon the real estate. This subdivision shall apply only to security interests in manufactured homes which are placed on real property after August 28, 1998. This subdivision shall not prevent the use of fixture filings for manufactured homes.

(6) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) the debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(7) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4), (5) and (6), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(8) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(9) When the secured party has priority over all owners and encumbrancers of the real estate, he may, on default, subject to the provisions of part 5, remove his collateral from the real estate, but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.]

[400.009-314. PERFECTION BY CONTROL. — (1) A security interest in goods which attaches before they are installed in or affixed to other goods takes priority as to the goods installed or affixed (called in this section "accessions") over the claims of all persons to the whole except as stated in subsection (3) and subject to section 400.9-315(1).

(2) A security interest which attaches to goods after they become part of a whole is valid against all persons subsequently acquiring interests in the whole except as stated in subsection (3) but is invalid against any person with an interest in the whole at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as part of the whole.

(3) The security interests described in subsections (1) and (2) do not take priority over

(a) a subsequent purchaser for value of any interest in the whole; or

(b) a creditor with a lien on the whole subsequently obtained by judicial proceedings; or

(c) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances if the subsequent purchase is made, the lien by judicial proceedings obtained or the subsequent advance under the prior perfected security interest is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the whole at a foreclosure sale other than the holder of a perfected security interest purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(4) When under subsections (1) or (2) and (3) a secured party has an interest in accessions which has priority over the claims of all persons who have interests in the whole, he may on default subject to the provisions of part 5 remove his collateral from the whole but he must reimburse any encumbrancer or owner of the whole who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.]

[400.009-315. SECURED PARTY'S RIGHTS ON DISPOSITION OF COLLATERAL AND IN PROCEEDS. — (1) If a security interest in goods was perfected and subsequently the goods or a part thereof have become part of a product or mass, the security interest continues in the product or mass if

(a) the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass; or

(b) a financing statement covering the original goods also covers the product into which the goods have been manufactured, processed or assembled. In a case to which paragraph (b)

applies, no separate security interest in that part of the original goods which has been manufactured, processed or assembled into the product may be claimed under section 400.9-314.

(2) When under subsection (1) more than one security interest attaches to the product or mass, they rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass.]

[400.009-316. CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING CHANGE IN GOVERNING LAW. — Nothing in this article prevents subordination by agreement by any person entitled to priority.]

[400.009-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. — The mere existence of a security interest or authority given to the debtor to dispose of or use collateral does not impose contract or tort liability upon the secured party for the debtor's acts or omissions.]

[400.009-318. NO INTEREST RETAINED IN RIGHT TO PAYMENT THAT IS SOLD — RIGHTS AND TITLE OF SELLER OF ACCOUNT OR CHATTEL PAPER WITH RESPECT TO CREDITORS AND PURCHASERS. — (1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in section 400.9-206 the rights of an assignee are subject to

(a) all the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

(b) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment or a part thereof under an assigned contract has not been fully earned by performance, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the amount due or to become due has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor is ineffective if it prohibits assignment of an account or prohibits creation of a security interest in a general intangible for money due or to become due, or requires the account debtor's consent to such assignment or security interest.]

[400.009-401. ALIENABILITY OF DEBTOR'S RIGHTS. — (1) The proper place to file in order to perfect a security interest is as follows:

(a) when the collateral is equipment used in farming operations, or farm products, or accounts, or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the recorder of deeds in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the recorder of deeds in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the recorder of deeds in the county where the land is located;

(b) when the collateral is timber to be cut, minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 400.9-103, or when the financing statement is filed

as a fixture filing (section 400.9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed for record, and any such filing shall be for record;

(c) in all other cases, in the office of the secretary of state and in addition, if the debtor has a place of business in only one county of this state, also in the office of the recorder of deeds of such county, or, if the debtor has no place of business in this state, but resides in the state, also in the office of the recorder of deeds of the county in which he resides.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in section 400.9-103 determine whether filing is necessary in this state.

(5) Notwithstanding the preceding subsections, and subject to subsection (3) of section 400.9-302, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. This filing constitutes a fixture filing (section 400.9-313) as to the collateral described therein which is or is to become a fixture.

(6) For the purposes of this section, the residence of an organization is its place of business, if it has one, or its chief executive office if it has more than one place of business.]

[400.009-402. SECURED PARTY NOT OBLIGATED ON CONTRACT OF DEBTOR OR IN TORT.

— (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 400.9-103, or when the financing statement is filed as a fixture filing (section 400.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under section 400.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor).....

Address

Name of secured party (or assignee).....

Address.....

1. This financing statement covers the following types (or items) of property:

(Describe).....

2. (If applicable) The above goods are to become fixtures on

Where appropriate substitute either "The above timber is standing on" or "The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on"

(Describe Real Estate) and this financing statement is to be filed in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

.....

3. (If products of collateral are claimed) Products of the collateral are also covered.

(use)

whichever Signature of Debtor (or Assignee)

is)

applicable) Signature of Secured Party (or Assignee)

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 400.9-103, or a financing statement filed as a fixture filing (section 400.9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, limited liability company, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes such debtor's name or in the case of an organization its name, identity or organizational structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A financing statement shall not be deemed seriously misleading for purposes of this section by the merger, consolidation, share exchange or conversion of a debtor from one type of entity (e.g. corporation, partnership, limited partnership, limited liability company) into another and a corresponding change in the debtor's name, providing the debtor's name changes only to the extent of adding or changing the designation of the debtor's form of organization, and by way of example and not of limitation, the change from "incorporation" or "inc." to "limited liability company" or "LLC" is not seriously misleading, provided it follows the debtor's name. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.]

[400.009-403. AGREEMENT NOT TO ASSERT DEFENSES AGAINST ASSIGNEE. — (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in subsection (7) of this section, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period, unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against a debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five-year period, whichever occurs later. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the secured party shall give the filing officer written notice of insolvency proceedings, and failing such notice, the filing officer may act as though insolvency proceedings have not been commenced. Without regard to the secured party's compliance with this notice requirement, the security interest remains perfected until the termination of the insolvency proceedings and thereafter for a period of sixty days, or until the financing statement would otherwise have expired, whichever occurs later. Upon lapse, the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) The uniform fee for filing, indexing and furnishing filing data for a financing statement on officially approved forms shall be six dollars. The uniform fee for filing forms of a size other than officially approved by the secretary of state shall be six dollars, plus one dollar per page for attachments. The uniform fee for filing, indexing and furnishing filing data for an amendment on officially approved forms shall be four dollars. The uniform fee for filing forms of a size other than officially approved by the secretary of state shall be six dollars, plus one dollar per page for attachments.

(4) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 400.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(5) Except as provided in subsection (8), a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement, or a microfilm or other photographic copy thereof, for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(6) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for a continuation statement shall be four dollars if the statement is of the standard size prescribed by the secretary of state. The uniform fee for filing forms of a size other than that officially approved by the secretary of state shall be six dollars, plus one dollar per page for attachments.

(7) If the debtor is a transmitting utility (subsection (5) of section 400.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 400.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(8) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 400.9-103, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.]

[400.009-404. RIGHTS ACQUIRED BY ASSIGNEE — CLAIMS AND DEFENSES AGAINST ASSIGNEE.] — (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof on officially approved forms shall be four dollars. The uniform fee for filing and indexing such an assignment or statement thereof made on forms of a size other than that officially approved by the secretary of state shall be six dollars, plus one dollar per page for attachments. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(3) No fee shall be charged for filing, indexing, sending or delivering a termination statement.]

[400.009-405. MODIFICATION OF ASSIGNED CONTRACT.] — (1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 400.9-403(5). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment on officially approved forms shall be six dollars. The uniform fee for filing forms of a size other than that officially approved by the secretary of state shall be six dollars, plus one dollar per page for attachments.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall

note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 400.9-103, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be four dollars if the statement is of the standard size prescribed by the secretary of state and otherwise shall be six dollars, plus one dollar per page for attachments. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of section 400.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this chapter.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.]

[400.009-406. DISCHARGE OF ACCOUNT DEBTOR — NOTIFICATION OF ASSIGNMENT — IDENTIFICATION AND PROOF OF ASSIGNMENT — RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE. — A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 400.9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be four dollars if the statement is of the standard size prescribed by the secretary of state and otherwise shall be six dollars, plus one dollar per page for attachments.]

[400.009-407. RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST. — (1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be eight dollars. Upon request the filing officer shall issue his certificate showing a copy of all filed financing statements and statements of assignment naming a particular debtor. The uniform fee for such a certificate shall be eight dollars, plus fifty cents per page copied after ten pages.]

[400.009-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE. — Notwithstanding any other provisions of this chapter, the following special provisions apply where a financing statement is required to be filed for record in the office where a mortgage on the real estate concerned would be filed for record.

(1) Any amendment, continuation statement, termination statement, statement of assignment, or statement of release incidental to such a financing statement shall be filed for record in the same office where the original financing statement is recorded.

(2) In addition to other requirements of this part of this chapter, every such statement incidental to such a financing statement shall refer to the original financing statement by book and page of the record thereof.

(3) Such financing statements and such other statements incidental thereto shall be recorded in the real estate mortgage records, and shall be indexed as real estate mortgages. If any statement shows the name of a record owner of the real estate which is other than the name of the debtor or the secured party, the statement also shall be indexed in the mortgagor index according to the name of such record owner. Such financing statements and such other statements incidental thereto are entitled to be recorded even though not proved or acknowledged and certified. Fees for recording and related services shall be the same as the fees authorized by law in the case of real estate mortgages.

(4) The recorder of deeds shall not be liable for any loss resulting from failure of the recorder to record and index a financing statement or other statement incidental thereto as a mortgage on real estate unless it is clearly evident that such recording is desired, either by written instructions endorsed on the financing statement or other statement incidental thereto directing that it be recorded and indexed as a mortgage on real estate, by payment of the recording fee, or otherwise.]

[400.009-409. RESTRICTIONS ON ASSIGNMENT OF LETTER-OF-CREDIT RIGHTS INEFFECTIVE.] — A consignor or lessor of goods may file a financing statement using the terms "consignor", "consignee", "lessor", "lessee" or the like instead of the terms specified in section 400.9-402. The provisions of this part shall apply as appropriate to such a financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security (section 400.1-201(37)). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing.]

[400.009-501. FILING OFFICE.] — (1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this part and except as limited by subsection (3) those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in section 400.9-207. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in this part, those provided in the security agreement and those provided in section 400.9-207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (3) of section 400.9-504 and section 400.9-505) and with respect to redemption of collateral (section 400.9-506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) subsection (2) of section 400.9-502 and subsection (2) of section 400.9-504 insofar as they require accounting for surplus proceeds of collateral;

(b) subsection (3) of section 400.9-504 and subsection (1) of section 400.9-505 which deal with disposition of collateral;

(c) subsection (2) of section 400.9-505 which deals with acceptance of collateral as discharge of obligation;

(d) section 400.9-506 which deals with redemption of collateral; and
(e) subsection (1) of section 400.9-507 which deals with the secured party's liability for failure to comply with this part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this part as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case the provisions of this part do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.]

[400.009-502. CONTENTS OF FINANCING STATEMENT — RECORD OF MORTGAGE AS FINANCING STATEMENT — TIME OF FILING FINANCIAL STATEMENT. — (1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under section 400.9-306.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secured party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.]

[400.009-503. NAME OF DEBTOR AND SECURED PARTY. — Unless otherwise agreed a secured party has on default the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under section 400.9-504.]

[400.009-504. INDICATION OF COLLATERAL. — (1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to the article on sales (article 2). The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale or lease, selling or leasing and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorney fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor. If he has not signed after default a statement renouncing or modifying his right to notification of sale, but no such statement shall be effective in the case of consumer goods. In the case of consumer goods, no other notification need be sent. In other cases, notification shall be sent to any other secured party from whom the secured party has received (before sending his notification to the debtor) written notice of a claim of an interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this part or of any judicial proceedings

(a) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) in any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, endorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this article.]

[400.009-505. FILING AND COMPLIANCE WITH OTHER STATUTES AND TREATIES FOR CONSIGNMENTS, LEASES, OTHER BAILMENTS, AND OTHER TRANSACTIONS. — (1) If the debtor has paid sixty percent of the cash price in the case of a purchase money security interest in consumer goods or sixty percent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this part a secured party who has taken possession of collateral must dispose of it under section 400.9-504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under section 400.9-507(1) on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor. Except in cases of consumer goods, notice shall be sent to any other secured party from whom the secured party has received (before sending his notice to the debtor) written notice of a claim of an interest in the collateral. If the secured party receives objection in writing from a person entitled to receive notification within twenty-one days after the notice was sent, the secured party must dispose of the collateral under section 400.9-504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.]

[400.009-506. EFFECT OF ERRORS OR OMISSIONS.] — At any time before the secured party has disposed of collateral or entered into a contract for its disposition under section 400.9-504 or before the obligation has been discharged under section 400.9-505(2) the debtor or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorney fees and legal expenses.]

[400.009-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT.] — (1) If it is established that the secured party is not proceeding in accordance with the provisions of this part disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this part. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten percent of the principal amount of the debt or the time price differential plus ten percent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.]

[400.009-508. EFFECTIVENESS OF FINANCING STATEMENT IF NEW DEBTOR BECOMES BOUND BY SECURITY AGREEMENT.] — The secretary of state may collect an additional fee of five dollars on each and every fee paid to the secretary of state as required in chapter 400.9. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the efficient operation of business procedures regulated by the secretary of state in this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2001.

Approved June 29, 2001

SB 290 [HS SCS SB 290]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases benefits for the Kansas City police and civilian police employee retirement system.

AN ACT to repeal sections 56.807, 56.816, 86.200, 86.207, 86.213, 86.233, 86.237, 86.250, 86.251, 86.252, 86.253, 86.256, 86.257, 86.260, 86.263, 86.267, 86.288, 86.290, 86.292, 86.300, 86.320, 86.340, 86.353, 86.360, 86.365, 86.370, 86.447, 86.450, 86.457, 86.463, 86.483, 86.600, 86.620, 86.675, 86.690, 86.750, 86.780, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.371 and 87.615, RSMo 2000, relating to certain relief and pension systems, and to enact in lieu thereof fifty-two new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 56.807. Local payments, amounts — prosecuting attorneys and circuit attorneys' retirement system fund created — donations may be accepted.
- 56.816. Normal annuity, computation of — reserve account established, purpose.
- 86.200. Definitions.
- 86.207. Members of system, who are.
- 86.213. Board of trustees to administer — members of board, selection — terms.
- 86.233. Records of board — annual report.
- 86.237. Legal adviser — medical board — appointment of administrator.
- 86.250. Members may retire when — application to board to be made when — compulsory retirement.
- 86.251. Deferred retirement option plan — election — deposit of retirement allowance in DROP account — termination of participation, when — forms of payment — effect of participation — death of member, payment of funds — accidental disability retirement allowance, effect — interest, amount — approval by IRS — election for monthly survivor annuity, when.
- 86.252. Distribution of interest of member, when — distribution periods.
- 86.253. Service retirement allowance, how calculated — military service credit — contributions refund, when — retiree, surviving spouses, special consultants, when, benefits reduced, when.
- 86.256. Annual benefit not to exceed certain amount — annual additions not to exceed certain amount — combined plan limitation not to be exceeded — incorporation by reference of Internal Revenue Code.
- 86.257. Disability retirement allowance granted, when.
- 86.260. Disability allowance, how calculated — members as special consultants, when — benefits for children.
- 86.263. Service-connected accidental disability retirement.
- 86.267. Service-connected disability retirement allowance calculated, how — appointment as special consultant, amount to be paid, duties.
- 86.288. Contributions paid to surviving spouses, when.
- 86.290. Accumulated contributions refunded, when.
- 86.292. Accumulated contributions to remain system assets, when.
- 86.300. Trustees to manage funds.
- 86.320. Contributions, rate of — deduction from compensation.
- 86.340. Accrued liability contribution discontinued, when.
- 86.353. Benefits exempt from taxes and execution — not assignable, exception, child support or maintenance.
- 86.360. Consolidation of retirement system created by sections 86.010 to 86.193 with system created by this law.
- 86.365. Special advisors, qualifications, compensation.
- 86.370. Definitions.
- 86.447. Pensions of dependents of deceased retired members — funeral benefit — special consultant, duty, compensation.
- 86.450. Accidental disability pension — periodical examinations — effect of earnings.
- 86.457. Pension where disability not exclusively connected with service — nonduty disability beneficiary, periodic examinations required.
- 86.463. Pension after ten years' service, termination of service by commissioners — pension after fifteen years' service on resignation, how calculated.
- 86.483. Investment of funds, board authorized to manage, designate depository — procedures.
- 86.600. Definitions.
- 86.620. Who shall be members — membership vests, when — terminated employee with five years' service option to withdraw contribution or leave in fund for pension — special consultant, duty, compensation.
- 86.671. Offsets to workers' compensation payments — rulemaking authorized — member's percentage defined.
- 86.675. Cost-of-living adjustment — terms defined.
- 86.690. Death of member prior to retirement, payments made, how.
- 86.750. Board shall be trustees of funds — powers and duties.
- 86.780. Fund moneys exempt from execution — not assignable, except for support obligations.
- 87.120. Definitions.

- 87.130. Membership requirements.
- 87.135. Members shall file detailed account of service — verification of service and issuance of service certificate.
- 87.170. Conditions of retirement.
- 87.185. Military service during war credited.
- 87.205. Accidental disability retirement allowance.
- 87.215. Reduction and suspension of pension, when.
- 87.237. Retiree to become special advisor, when, compensation.
- 87.240. Accumulated contributions to be refunded, when.
- 87.288. Retired firefighter not receiving cost-of-living benefit, special consultant — compensation, amount.
- 87.310. Repayment with interest of contributions withdrawn on reinstatement of member.
- 87.371. Unused sick leave, how credited.
- 87.615. Retired firemen or their beneficiaries not covered by retirement system may be employed by certain cities as consultants, duties, compensation (St. Joseph).
 - 1. Contact information for retired members to be provided, when (St. Louis City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 56.807, 56.816, 86.200, 86.207, 86.213, 86.233, 86.237, 86.250, 86.251, 86.252, 86.253, 86.256, 86.257, 86.260, 86.263, 86.267, 86.288, 86.290, 86.292, 86.300, 86.320, 86.340, 86.353, 86.360, 86.365, 86.370, 86.447, 86.450, 86.457, 86.463, 86.483, 86.600, 86.620, 86.675, 86.690, 86.750, 86.780, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.371 and 87.615, RSMo 2000, are repealed and fifty-two new sections enacted in lieu thereof, to be known as sections 56.807, 56.816, 86.200, 86.207, 86.213, 86.233, 86.237, 86.250, 86.251, 86.252, 86.253, 86.256, 86.257, 86.260, 86.263, 86.267, 86.288, 86.290, 86.292, 86.300, 86.320, 86.340, 86.353, 86.360, 86.365, 86.370, 86.447, 86.450, 86.457, 86.463, 86.483, 86.600, 86.620, 86.671, 86.675, 86.690, 86.750, 86.780, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.371, 87.615 and 1, to read as follows:

56.807. LOCAL PAYMENTS, AMOUNTS — PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS' RETIREMENT SYSTEM FUND CREATED — DONATIONS MAY BE ACCEPTED. —

1. The funds for prosecuting attorneys and circuit attorneys provided for in subsection 2 of this section shall be paid from county or city funds.

2. Beginning thirty days after the establishment of this system and monthly thereafter, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification **except as provided in subdivision (3) of this subsection**, three hundred seventy-five dollars;

(2) For counties of the second classification, five hundred forty-one dollars and sixty-seven cents;

(3) For counties of the first classification, **counties which pursuant to section 56.363 elect to make the position of prosecuting attorney and full-time position after August 28, 2001**, and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-seven cents.

3. The county treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys held by the state treasurer on behalf of the system shall be paid to the system within ninety days after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

4. The board may accept gifts, donations, grants and bequests from private or public sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

5. No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840 unless provided for by law.

56.816. NORMAL ANNUITY, COMPUTATION OF — RESERVE ACCOUNT ESTABLISHED, PURPOSE. — 1. The normal annuity of a retired member who served as prosecuting attorney of a county of the third or fourth class shall, **except as provided in subsection 3 of this section**, be equal to:

(1) Any member who has served twelve or more years as a prosecuting attorney and who meets the conditions of retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred five dollars multiplied by the number of two-year periods and partial two-year periods served as a prosecuting attorney;

(2) Any member who has served twenty or more years as a prosecuting attorney and who meets the conditions of retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred thirty dollars multiplied by the number of two-year periods and partial two-year periods as a prosecuting attorney.

2. The normal annuity of a retired member who served as prosecuting attorney of a first or second class county or as circuit attorney of a city not within a county shall be equal to fifty percent of the final average compensation.

3. **The normal annuity of a retired member who served as a prosecuting attorney of a county which after August 28, 2001, elected to make the position of prosecuting attorney full-time pursuant to section 56.363 shall be equal to fifty percent of the final average compensation.**

4. The actuarial present value of a retired member's benefits shall be placed in a reserve account designated as a "Retired Lives Reserve". The value of the retired lives reserve shall be increased by the actuarial present value of retiring members' benefits, and by the interest earning of the total fund on a pro rata basis and it shall be decreased by payments to retired members and their survivors. Each year the actuary shall compare the actuarial present value of retired members' benefits with the retired lives reserve. If the value of the retired lives reserve plus one year's interest at the assumed rate of interest exceeds the actuarial present value of retired lives, then distribution of this excess may be made equally to all retired members, or their eligible survivors. The distribution may be in a single sum or in monthly payments at the discretion of the board on the advice of the actuary.

86.200. DEFINITIONS. — The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all [amounts] **mandatory contributions** deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation",

(a) **With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;**

(b) **With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last [three] two years of creditable service as a policeman, or if the member has had less than [three] two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;**

(c) **With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who**

returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in subparagraph (a) of this subdivision; and the portion of the member's benefit attributable to creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in subparagraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in subparagraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in subparagraph (b) of this subdivision; and

(f) If a member who is described in subparagraph (c) or (e) of this subdivision completes less than one full year of creditable service after returning to active participation in the system, the member's earnable compensation for the period immediately prior to DROP entry shall be added to the member's earnable compensation after the member's return to active participation for purposes of determining such member's average final compensation for his or her last year of creditable service.

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

(6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;

(7) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;

(8) "DROP", the deferred retirement option plan provided for in section 86.251;

(9) "Earnable compensation", the annual salary which a member would earn during one year on the basis of the member's rank or position as specified in the applicable salary matrix in section 84.160, RSMo, plus additional compensation for academic work as provided in subsection 9 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 10 of section 84.160, RSMo. Such amount shall be determined without regard to the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code. Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. [If a member who is a noneligible participant is a highly compensated employee, as defined in Section 414(q)

of the Internal Revenue Code, and one of the ten persons paid the highest compensation by the employer for the plan year, the aggregate earnable compensation of the member's family members who are members, including only the member's spouse and lineal descendants who have not reached the age of nineteen years, shall not exceed the compensation limit of Section 401(a)(17) of the Internal Revenue Code.] For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

- (a) The last day of the plan year that includes August 28, 1995; or
- (b) December 31, 1995;
- (10) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;
- (11) **"Mandatory contributions", the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;**

- (12) "Medical board", the board of physicians provided for in section 86.237;
- [(12)] (13) "Member", a member of the retirement system as defined by sections 86.200 to 86.366;

- (14) **"Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;**

- [(13)] (15) "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;

- [(14)] (16) "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;

- [(15)] (17) "Policeman" or "police officer", any member of the police force of such cities who holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;

- [(16)] (18) "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;

- [(17)] "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;

- (18)] (19) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon **termination of employment as a police officer and actual retirement;**

- [(19)] (20) "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;

- [(20)] (21) "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.207. MEMBERS OF SYSTEM, WHO ARE. — 1. All persons who become policemen and all policemen who enter or reenter the service of the city after the first day of October, 1957, become members as a condition of their employment and shall receive no pensions or retirement allowance from any other pension or retirement system supported wholly or in part by the city or the state of Missouri, nor shall they be required to make contributions under any other pension or retirement system of the city or the state of Missouri, anything to the contrary notwithstanding.

2. If any member ceases to be in service for more than one year unless the member has attained the age of fifty-five or has twenty years or more of creditable service, or if the member withdraws the member's accumulated contributions or if the member receives benefits under the retirement system or dies, the member thereupon ceases to be a member; except in the case of

a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman. A member who **has terminated employment as a police officer, has actually retired and** is receiving retirement benefits under the system shall be considered a retired member.

86.213. BOARD OF TRUSTEES TO ADMINISTER — MEMBERS OF BOARD, SELECTION — TERMS. — 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.200 to 86.366 are hereby vested in a board of trustees of ten persons. The board shall be constituted as follows:

(1) The president of the board of police commissioners of the city, ex officio. If the president is absent from any meeting of the board of trustees for any cause whatsoever, the president may be represented by any member of the board of police commissioners who in such case shall have full power to act as a member of the board of trustees;

(2) The comptroller of the city, ex officio. If the comptroller is absent from any meeting of the board of trustees for any cause whatsoever, the comptroller may be represented by either the deputy comptroller or the first assistant comptroller who in such case shall have full power to act as a member of the said board of trustees;

(3) Three members to be appointed by the mayor of the city to serve for a term of two years;

(4) Three members to be elected by the members of the retirement system of the city for a term of three years; provided, however, that the term of office of the first three members so elected shall begin immediately upon their election and one such member's term shall expire one year from the date the retirement system becomes operative, another such member's term shall expire two years from the date the retirement system becomes operative and the other such member's term shall expire three years from the date the retirement system becomes operative; provided, further, that such members shall be members of the system and hold office only while members of the system;

(5) Two members who shall be [retirees] **retired members** of the retirement system to be elected by the [retirees] **retired members** of the retirement system for a term of three years; except that, the term of office of the first two members so elected shall begin immediately upon their election and one such member's term shall expire two years from the date of election and the other such member's term shall expire three years from the date of election.

2. Any member elected chairman of the board of trustees may serve a total of four years in that capacity which shall be limited to no more than two consecutive terms.

3. Each commissioned elected trustee shall be granted travel time by the St. Louis metropolitan police department to attend any and all functions that have been authorized by the board of trustees of the police retirement system of St. Louis. Travel time for a trustee shall not exceed thirty days in any board fiscal year.

86.233. RECORDS OF BOARD — ANNUAL REPORT. — 1. The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the [various funds of the] retirement system and for checking the experience of the system.

2. The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

86.237. LEGAL ADVISER — MEDICAL BOARD — APPOINTMENT OF ADMINISTRATOR. —

1. The [city counselor of the said cities shall be the legal adviser of the] board of trustees is **authorized to use the city counselor of the specified cities as a legal advisor to the board of trustees and may also appoint an attorney at law or firm of attorneys at law to serve**

as the legal advisor and consultant to the board of trustees and to represent the system and the board of trustees in all legal proceedings.

2. The board of trustees shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of sections 86.200 to 86.366, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all the matters referred to it. In addition, the board of trustees may appoint a fourth physician to act as an administrator of the medical board who may, with the consent of the board of trustees, select the members of the medical board and coordinate any reports to the board of trustees.

86.250. MEMBERS MAY RETIRE WHEN — APPLICATION TO BOARD TO BE MADE WHEN — COMPULSORY RETIREMENT. — Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

(1) Any member may **terminate employment as a police officer and actually** retire after completing twenty or more years of creditable service or attaining the age of fifty-five upon the member's written application to the board of trustees setting forth at what time, but not more than ninety days subsequent to the execution and filing of the application, the member desires to be retired;

(2) Any member in service who has attained the age of sixty-five shall be **terminated as a police officer and actually** retired forthwith provided that upon request of the board of police commissioners the board of trustees may permit such member to remain in service for periods of not to exceed one year from the date of the last request from the board of police commissioners.

86.251. DEFERRED RETIREMENT OPTION PLAN — ELECTION — DEPOSIT OF RETIREMENT ALLOWANCE IN DROP ACCOUNT — TERMINATION OF PARTICIPATION, WHEN — FORMS OF PAYMENT — EFFECT OF PARTICIPATION — DEATH OF MEMBER, PAYMENT OF FUNDS — ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, EFFECT — INTEREST, AMOUNT — APPROVAL BY IRS — ELECTION FOR MONTHLY SURVIVOR ANNUITY, WHEN. —

1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members **who are** eligible for retirement **but who have not terminated employment as police officers and who have not actually retired** may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to **postpone actual retirement**, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall **postpone actual retirement, shall** continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any **mandatory** contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had **actually retired instead of entering DROP** shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's **termination of employment as a police officer and actual** retirement. Cost-of-living increases, if any, for any period following the member's **termination of employment**

as a **police officer and actual** retirement shall be applied only to monthly service retirement payments made following **termination of employment as a police officer and actual** retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents' benefits. **Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service retirement allowance or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.**

4. [The member's contributions to the retirement system shall be paid to the member or the member's surviving spouse pursuant to sections 86.253 and 86.288 within sixty days after the member's date of retirement and not the date of the conclusion of the member's participation in the DROP, unless such dates are the same.

5.] A member shall cease participation in the DROP upon the [earlier of the] termination of the member's employment as a **police officer and actual retirement**, or at the end of the five-year period commencing on the first day of the **member's** participation in the DROP, **or as of the effective date, but in no event prior to October 1, 2001, of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon the member's termination of employment as a police officer and actual retirement**, the member shall[, upon the member's termination of employment,] elect to receive the [amount in] **value of** the member's DROP account[, including any accrued interest], in one of the following forms of payment:

- (a) A lump sum payment; or
- (b) Equal monthly installments over a ten-year period.

[Any interest earned pursuant to this section during the installment period shall be paid as soon as reasonably possible after the final monthly installment.] Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

[6. A member who has elected to participate in the DROP may not reenter the system in any fashion. At the conclusion of the member's participation in the DROP by reason of the expiration of the five-year period, if the member does not terminate the member's employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366, the member shall continue not to have any percentage of the member's salary deducted for a contribution nor shall any of the member's employment period count as creditable service.]

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the DROP does not terminate employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 and actually retires at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall notify the police commissioners to begin deducting mandatory contributions from the member's salary and

the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the member pursuant to subsection 4 of section 86.253.

[7.] 8. If a member dies prior to termination of employment as a police officer and actual retirement while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the [funds in] **remaining balance** of the member's DROP account[, including any accumulated interest,] shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made within sixty days after the retirement system is notified of the member's death. **In addition, the member's mandatory contributions, if any, that were not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.**

[8.] 9. If a member has elected to participate in the DROP and during such participation period applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

[9.] 10. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the first day of each year, beginning with the second fiscal year of participation, the member's DROP account balance, determined as of the first day of such year, shall be credited with interest at the investment rate earned by the assets of the retirement system for the prior year. If distribution of the member's DROP account balance is completed during the year, interest shall be credited, based on the beginning balance for the year, in proportion to the part of the year preceding the date of final distribution. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed. **If the member's DROP account is paid in equal monthly installments pursuant to subsection 5 of this section, any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment.**

[10.] 11. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or assets credited to DROP accounts[.

11. The DROP] established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any [DROP] provision **of this section** if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until

the surviving spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date payment begins. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date payment begins.

86.252. DISTRIBUTION OF INTEREST OF MEMBER, WHEN — DISTRIBUTION PERIODS. —

Notwithstanding any provision of sections 86.200 to 86.366, to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member **terminates employment as a police officer and actually retires**. All distributions required pursuant to this section shall be determined and made in accordance with the income tax regulations under Section 401(a)(9) of the Internal Revenue Code, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

- (1) The life of the member;
- (2) The life of the member and a designated beneficiary;
- (3) A period certain not extending beyond the life expectancy of the member; or
- (4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.

86.253. SERVICE RETIREMENT ALLOWANCE, HOW CALCULATED — MILITARY SERVICE CREDIT — CONTRIBUTIONS REFUND, WHEN — RETIREE, SURVIVING SPOUSES, SPECIAL CONSULTANTS, WHEN, BENEFITS REDUCED, WHEN. — 1. Upon **termination of employment as a police officer and actual retirement for service**, a member shall receive a service retirement allowance which shall be an amount equal to two percent of the member's average final compensation multiplied by the number of years of the member's creditable service, up to twenty-five years, plus an amount equal to four percent of the member's average final compensation for each year of creditable service in excess of twenty-five years but not in excess of thirty years; plus an additional five percent of the member's average final compensation for any creditable service in excess of thirty years. Notwithstanding the foregoing, the service retirement allowance of a member who does not earn any creditable service after August 11, 1999, shall not exceed an amount equal to seventy percent of the member's average final compensation, and the service retirement allowance of a member who earns creditable service on or after August 12, 1999, shall not exceed an amount equal to seventy-five percent of the member's average final compensation; **provided, however, that the service retirement allowance of a member who is participating in the DROP pursuant to section 86.251 on August 12, 1999, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer and actually retires for reasons other than death or disability before earning at least two years of creditable service after such return shall be the sum of (1) the member's service retirement allowance as of the date the member entered DROP and (2) an additional service retirement allowance based solely on the creditable service earned by the member following the member's return to active participation. The member's total years of creditable service shall be taken into account for the purpose of determining whether the additional allowance attributable to such additional creditable service is two percent, four percent or five percent of the member's average final compensation.**

2. If, at any time since first becoming a member of the retirement system, the member has served in the armed forces of the United States, and has subsequently been reinstated as a policeman within ninety days after the member's discharge, the member shall be granted credit

for such service as if the member's service in the police department of such city had not been interrupted by the member's induction into the armed forces of the United States. If earnable compensation is needed for such period in computation of benefits it shall be calculated on the basis of the compensation payable to the officers of the member's rank during the period of the member's absence. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the retirement system governed by sections 86.200 to 86.366 shall be operated and administered in accordance with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of [1984] **1994**, as amended.

3. The service retirement allowance of each present and future retired member who **terminated employment as a police officer and actually** retired from service after attaining age fifty-five or after completing twenty years of creditable service shall be increased annually at a rate not to exceed three percent as approved by the board of trustees beginning with the first increase in the second October following the member's retirement and subsequent increases in each October thereafter, provided that each increase is subject to a determination by the board of trustees that the consumer price index (United States City Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at the date of determination; and provided further, that if the increase is in excess of the approved rate for any year, such excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to a maximum of three percent for each full year from October following the member's retirement but not to exceed a total percentage increase of thirty percent. In no event shall the increase described under this subsection be applied to the amount, if any, paid to a member or surviving spouse of a deceased member for services as a special consultant under subsection 5 of this section or, if applicable, subsection 6 of this section. If the board of trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below the member's initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease may be limited in amount by the initial benefit.

4. In addition to any other retirement allowance payable under this section and section 86.250, a member, upon **termination of employment as police officer and actual** service retirement, shall be repaid the total amount of the member's [contribution] **mandatory contributions** to the retirement system without interest. The board shall pay the retired member such total amount of the member's [contribution] **mandatory contributions** to the retirement system **to be paid pursuant to this subsection** within sixty days after such retired member's date of **termination of employment as a police officer and actual** retirement.

5. Any person who is receiving retirement benefits from the retirement system, upon application to the board of trustees, shall be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters, for the remainder of the person's life or, in the case of a deceased member's surviving spouse, until the earlier of the person's death or remarriage, and upon request of the board of trustees shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services the special consultant shall be compensated monthly, in an amount which, when added to any monthly retirement benefits being received from the retirement system, including any cost-of-living increases under subsection 3 of this section, shall total six hundred fifty dollars a month. This employment shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, notwithstanding any provisions of law to the contrary.

86.256. ANNUAL BENEFIT NOT TO EXCEED CERTAIN AMOUNT — ANNUAL ADDITIONS NOT TO EXCEED CERTAIN AMOUNT — COMBINED PLAN LIMITATION NOT TO BE EXCEEDED — INCORPORATION BY REFERENCE OF INTERNAL REVENUE CODE. — 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366,

exceed the amount specified in Section 415(b) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. In no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own **mandatory** contributions, exceed the lesser of:

(1) Twenty-five percent of the member's compensation, as defined for purposes of Section 415(c) of the Internal Revenue Code; or

(2) Thirty thousand dollars, as adjusted for increases in the cost of living.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations.

4. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants in police and fire department plans, is incorporated in this section by reference.

86.257. DISABILITY RETIREMENT ALLOWANCE GRANTED, WHEN. — Upon the application of a member in service or of the board of police commissioners, any member who has had ten or more years of creditable service shall **terminate employment as a police officer and shall be actually** retired by the board of trustees, not more than ninety days next following the date of filing such application on an ordinary disability retirement allowance; provided, that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

86.260. DISABILITY ALLOWANCE, HOW CALCULATED — MEMBERS AS SPECIAL CONSULTANTS, WHEN — BENEFITS FOR CHILDREN. — 1. Upon **termination of employment as a police officer and actual** retirement for ordinary disability a member shall receive a service retirement allowance if the member has attained the age of fifty-five or completed twenty years of creditable service; otherwise the member shall receive an ordinary disability retirement allowance which shall be equal to ninety percent of the member's accrued service retirement in section 86.253, but not less than one-fourth of the member's average final compensation; provided, however, that no such allowance shall exceed ninety percent of the member's accrued service retirement benefit based on continuation of the member's creditable service to the age set out in section 86.250.

2. Effective October 1, 1999, the ordinary disability retirement allowance will be increased by fifteen percent of the member's average final compensation for each unmarried dependent child of the disabled member who is under the age of eighteen, or who, regardless of age, is totally and permanently mentally or physically disabled and incapacitated from engaging in gainful occupation sufficient to support himself or herself, but not in excess of a total of three children; provided, however, that the combined benefit shall not exceed seventy percent of such average final compensation.

3. Any member receiving benefits pursuant to the provisions of this section immediately prior to October 1, 1999, shall upon application to the board of trustees, be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the member is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, there shall be payable an additional monthly compensation of one hundred dollars or five percent

of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member, but not in excess of a total of three children.

4. Any benefit payable to or for the benefit of a child or children under the age of eighteen years pursuant to the provisions of subsections 2 and 3 of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years in those cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

5. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen.

86.263. SERVICE-CONNECTED ACCIDENTAL DISABILITY RETIREMENT. — Upon application by the member or the board of police commissioners any member who has become totally and permanently incapacitated for duty **at some definite time and place** as the natural and proximate result of an accident occurring while in the actual performance of duty through no negligence on the member's part, and if such accident occurred not more than five years prior to date of application unless the accident was reported and an examination made of the member by the medical staff of the board of police commissioners within five years of the date of the accident with subsequent examinations made as requested, shall be retired by the board of trustees provided that the medical board shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired; provided that if the accident occurred prior to the age and year set out in section 86.250, application for benefits must be made before such age and year except that the interval between date of accident and of application may be six months.

86.267. SERVICE-CONNECTED DISABILITY RETIREMENT ALLOWANCE CALCULATED, HOW — APPOINTMENT AS SPECIAL CONSULTANT, AMOUNT TO BE PAID, DUTIES. — 1. Upon **termination of employment as a police officer and actual** retirement for accidental disability, other than permanent total disability as defined in subsection 2, a member shall receive a retirement allowance of seventy-five percent of the member's average final compensation.

2. Any member who, as the natural and proximate result of an accident occurring **at some definite time and place** in the actual performance of the member's duty through no negligence on the member's part, is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever shall receive a retirement allowance as under subsection 1 or, in the discretion of the board of trustees, may receive a larger retirement allowance in an amount not exceeding the member's rate of compensation as a policeman in effect as of the date the allowance begins.

3. The board of trustees, in its discretion, may, in addition to the allowance granted in accordance with the provisions of subsections 1 and 2, grant an allowance in an amount to be determined by the board of trustees, to provide such member with surgical, medical and hospital care reasonably required after retirement, which are the result and in consequence of the accident causing such disability.

4. Any person who is receiving benefits pursuant to subsection 2 of this section on or after August 28, 1997, **and any person who is receiving benefits pursuant to subsection 1 of this section on or after October 1, 2001, and who made mandatory contributions to the retirement system,** upon application to the board of trustees, shall be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters, and upon request of the board of trustees shall give opinions

and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services the retired member shall be paid a lump sum payment in an amount equal to the total amount of the member's **mandatory** contributions to the retirement system, without interest, within sixty days after approval of the retired member's application by the board of trustees.

86.288. CONTRIBUTIONS PAID TO SURVIVING SPOUSES, WHEN. — In addition to any other benefits payable, notwithstanding any provisions of sections 86.280 and 86.287 to the contrary, if a member dies while commissioned as a peace officer, or after retiring and before receiving a refund of the member's **mandatory** contributions in accordance with section 86.253 or 86.290, or while receiving a disability retirement allowance in accordance with section 86.253 or 86.257, the total amount of the member's [contribution] **mandatory contributions** to the retirement system shall be paid without interest to the surviving spouse of such member. Payment pursuant to this section shall be made within sixty days after the later of the date proper proofs of death are provided or August 28, 1994, regardless of when the member died or **actually** retired, provided that the surviving spouse shall be alive on the date that payment is made.

86.290. ACCUMULATED CONTRIBUTIONS REFUNDED, WHEN. — Should a member cease to be a policeman except by death or **actual** retirement, the member may request payment of the amount of the accumulated contributions standing to the credit of the member's individual account, including members' interest, in which event such amount shall be paid to the member not later than one year after the member ceases to be a policeman. If the former member is reemployed as a policeman before any portion of such former member's accumulated contributions is distributed, no distribution shall be made. If the former member is reemployed as a policeman after a portion of the former member's accumulated contributions is distributed, the amount remaining shall also be distributed.

86.292. ACCUMULATED CONTRIBUTIONS TO REMAIN SYSTEM ASSETS, WHEN. — If the board of trustees is unable to refund the **accumulated** contributions of a member or to commence payment of benefits within five years after such refund or benefits are otherwise first due and payable, the accumulated contributions shall remain assets of the retirement system. If proper application is thereafter made for refund or benefits, the board shall make payment, but no credit shall be allowed for any interest after the date the refund or benefits were first due and payable.

86.300. TRUSTEES TO MANAGE FUNDS. — The board of trustees shall be the trustees of the assets of the retirement system created by sections 86.200 to 86.366 [as provided in section 86.317] and shall have full power to [invest and reinvest such assets, subject to all the terms, conditions, limitations and restrictions imposed by law upon life or casualty insurance companies in the state of Missouri in making and disposing of their investments; and subject to like terms, conditions, limitations and restrictions said trustees shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the assets shall have been invested, as well as of the proceeds of said investments and any moneys belonging to the retirement system] **hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the assets shall have been invested, as well as the proceeds of such investments and any moneys belonging to the retirement system, subject to the terms, conditions and limitations provided in sections 105.687 to 105.689, RSMo.**

86.320. CONTRIBUTIONS, RATE OF — DEDUCTION FROM COMPENSATION. — 1. The board of trustees shall certify to the board of police commissioners and the board of police commissioners shall cause to be deducted from the salary of each member on each and every

payroll for each and every pay period, seven percent of the compensation of each member **who is not participating in the DROP, including each member whose participation in the DROP has ended and who has returned to active participation in the system pursuant to section 86.251**, and zero percent of the compensation of each member **who is participating in the DROP** or [after the conclusion of the member's participation in the DROP if the officer does not retire at that time] **whose participation in the DROP has ended but who has not returned to active participation in the system pursuant to section 86.251**.

2. The deductions provided for in this section shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent to the deductions made and provided for in this section, and shall receipt for the member's full salary or compensation and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered during the period covered by the payment except as to benefits provided by sections 86.200 to 86.366. The board of police commissioners shall certify to the board of trustees on each and every payroll or in such other manner as the board of trustees shall prescribe the amount deducted, and such amounts shall be paid into the system and shall be credited together with members' interest thereon to the individual account of the member from whose compensation such deduction was made.

3. The board of trustees is authorized to grant additional benefits for such parts of contributions as were made prior to the adoption of the seven-percent rate for all members which were in excess of the compulsory contributions required of each member.

86.340. ACCRUED LIABILITY CONTRIBUTION DISCONTINUED, WHEN. — The accrued liability contribution should be discontinued as soon as the accumulated reserve in the general [reserve] fund shall equal the present value, as actuarially computed and approved by the board of trustees, of the total liability of said fund, less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of persons who are at that time members.

86.353. BENEFITS EXEMPT FROM TAXES AND EXECUTION — NOT ASSIGNABLE, EXCEPTION, CHILD SUPPORT OR MAINTENANCE. — The right of any person to a benefit, any other right accrued or accruing to any person under the provisions of sections 86.200 to 86.366 and the moneys created pursuant to sections 86.200 to 86.366 [are exempt from any tax of the state of Missouri and] are not subject to execution, garnishment, attachment or any other process whatsoever and are unassignable except as in sections 86.200 to 86.366 specifically provided. Notwithstanding the foregoing, nothing in this section shall prevent the board of trustees from honoring the terms of a court order requiring the retirement system to pay all or any portion of the retirement benefit otherwise payable to a retired or disabled member to a third party to satisfy the member's obligation to pay child support or maintenance. **Any relief association created pursuant to section 86.500 shall be exempt from the tax imposed by sections 143.011 to 143.1013, RSMo.**

86.360. CONSOLIDATION OF RETIREMENT SYSTEM CREATED BY SECTIONS 86.010 TO 86.193 WITH SYSTEM CREATED BY THIS LAW. — The board of trustees provided for by section 86.213 is hereby authorized to consolidate, combine and transfer funds provided by sections 86.010 to 86.193 with the funds provided by sections 86.200 to 86.366 in such a manner as will simplify the operations of the two systems. [The accounts of all members of the two systems will be in the members' savings fund, and the pension accumulation fund will be in the general reserve fund.] Separate records shall be maintained only to the extent necessary to determine and pay the benefits provided by sections 86.010 to 86.193 for those policemen electing not to become members of the retirement system provided by sections 86.200 to 86.366. The board of trustees may accept the membership records of the older system in lieu of the requirements

in section 86.210. The board of trustees may authorize the use of the same actuarial assumptions and interest rate in the calculation of the contributions by the cities for both systems and the accrued liability rate may be a combined rate for both systems.

86.365. SPECIAL ADVISORS, QUALIFICATIONS, COMPENSATION. — Any person who served as a policeman for a period of thirty years and who **terminated employment and actually** retired prior to October 1, 1957, in the police department of any city [having a population of over seven hundred thousand] **not within a county**, under the provisions of this chapter, shall, upon application to the police department of that city, be employed by the department as a special advisor and supervisor in connection with city police problems. Any person so employed shall perform such duties as the chief of police directs and shall receive a salary of one hundred dollars per month, payable out of the department budget pursuant to appropriations for the purpose; except that, the payment to the retired person for such services, together with the retirement benefits such retired person receives under this chapter, shall not exceed two hundred dollars per month. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under any provision of this chapter.

86.370. DEFINITIONS. — The following words and phrases as used in sections 86.370 to 86.497, unless a different meaning is plainly required by the context, shall have the following meanings, and the use of masculine gender shall include the feminine:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.370 to 86.497;

(2) "Beneficiary", any person in receipt of pension or other benefit as provided in sections 86.370 to 86.497;

(3) "Board of police commissioners", any board composed of police commissioners and any other officials or boards authorized by law to employ and manage an organized police force in the cities;

(4) "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants;

(5) "Compensation", whenever used in connection with members of the police retirement system created by sections 86.370 to 86.497, and whether used solely or as part of another defined term, the regular compensation which a member would earn during one year on the basis of the stated compensation for his rank and position, and therefore excluding any overtime pay, meal and travel expenses, uniform or other clothing allowances, any sick leave or vacation entitlements accrued from prior years, college incentive or skill incentive allowances and any other allowances available only to particular individuals and not a part of the base stated compensation for all persons holding the given rank and position;

(6) "Creditable service", prior service plus membership service as provided in section 86.423;

(7) "Final compensation", the average annual compensation of a member during his service if less than two years, or the twenty-four months of his service for which he **or she** received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member under this subdivision, no compensation received for service which occurred after the thirtieth full year of membership service and no compensation attributable to any time a member was suspended from service without pay shall be included. **For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;**

(8) "Fiscal year", the fiscal year of the cities;

(9) "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

(10) "Member", a member of the police retirement system as defined in section 86.380;

(11) "Membership service", all service rendered as a policeman for compensation after June 15, 1946, excluding all probationary service of six months or less served prior to May 1, 1951;

(12) "Pension", annual payments for life, payable monthly, beginning with the date of retirement and ending with death; if the total of such monthly payments plus benefits pursuant to section 86.447 is less than the total of the member's accumulated contributions, the excess of such accumulated contributions over the total of such monthly payments shall be paid in one sum to the beneficiary named by the member;

(13) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.370 to 86.497 and by the members of the police retirement system;

(14) "Policeman", entitled to membership in the police retirement system created by sections 86.370 to 86.497, is an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty and includes the chief of police, lieutenant colonels, majors, superintendents, captains, lieutenants, sergeants, corporals, detectives, patrolmen, supervisors, technicians, radio operators, radio dispatchers, jailers, and matrons, but does not include any police commissioner or members of the police reserve corps, or special officers appointed to serve at elections, or temporary police appointed at school crossings or special officers appointed to serve during emergencies, or anyone employed in a clerical or other capacity not involving police duties; except that any policeman as herein defined, who is assigned to the performance of other duties for the police departments of the cities, by reason of personal injury by accident or disability arising out of and in the course of his employment as a policeman, shall be and remain a member of the police retirement system without regard to the duties performed under such assignment; in case of dispute as to whether any person is a policeman qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

(15) "Retirement board", the board provided in section 86.393 to administer the retirement system;

(16) "Retirement system", the police retirement system of the cities as defined in section 86.373.

86.447. PENSIONS OF DEPENDENTS OF DECEASED RETIRED MEMBERS — FUNERAL BENEFIT — SPECIAL CONSULTANT, DUTY, COMPENSATION. — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatever or of the death of a member after having been retired and pensioned, there shall be paid, in addition to all other benefits **but subject to subsection 7 of this section**, the following:

(1) If a member dies while in service, such member's surviving spouse, if any, shall be paid a base pension equal to forty percent of the final compensation of such member, subject to subsequent adjustments, if any, as provided in section 86.441;

(2) If a member retires or terminates service after August 28, 1999, and dies after commencement of benefits pursuant to the provisions of sections 86.370 to 86.497, the member's surviving spouse, if any, shall be paid a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(3) If a member retired or terminated service on or before August 28, 1999, and died after August 28, 1999, and after commencement of benefits, such member's surviving spouse shall upon application to the retirement board, be appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in

response to such requests, as may be required. For such services, the surviving spouse shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be compensated in such amount as shall make the benefits received by such surviving spouse pursuant to this subsection equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(4) Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse's benefit provided pursuant to this subsection, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall not be less than six hundred dollars per month. For any member who dies, retires or terminates service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made pursuant to this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be not less than six hundred dollars monthly. A pension benefit pursuant to this subdivision shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted pursuant to section 86.441. The benefit pursuant to this subdivision shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly;

(5) Such member's child or children under the age of eighteen years at the time of the member's decease shall be paid fifty dollars per month each, subject to adjustments, if any, as provided in section 86.441, until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue to receive payments hereunder for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided. Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen;

(6) A funeral benefit of one thousand dollars.

2. For the purposes of this section, "commencement of benefits" shall begin, for any benefit, at such time as all requirements have been met entitling the member to a payment of such benefit at the next following payment date, disregarding advance notice periods required by any paying agent for physical preparation of the payment, so that a member who dies between the date all such requirements are met and the date when the system would have delivered such member's initial payment shall be deemed to have commenced such benefit.

3. If there is no person qualified to receive a pension as a surviving spouse or if a surviving spouse dies, the total amount which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children under the age of

eighteen years and the incapacitated children in equal shares. As each child attains the age of eighteen years or has such incapacity removed, the total of the surviving spouse's pension shall then be added to and divided among the remaining children, and when there is only one child under the age of eighteen years or incapacitated, whether such child is the sole surviving child of the member or the youngest child of several children, the total amount of the surviving spouse's pension shall be paid to the child until such child reaches the age of eighteen years or such incapacity is removed.

4. (1) The surviving spouse of a member who retired or died prior to August 28, 1997, shall not be entitled to receive benefits or the payment of a pension pursuant to sections 86.370 to 86.497 unless marriage to the member occurred at least two years before the member's retirement or at least two years before the death of the member while in service; provided, that no benefits shall be denied pursuant to this subsection to the surviving spouse of a member whose death occurred in the line of duty or from an occupational disease arising out of and in the course of the member's employment.

(2) No surviving spouse of a member who retired or died while in service after August 28, 1997, and before August 28, 2000, shall be entitled to receive any benefits pursuant to this section unless such spouse was married to the member at the time of the member's retirement or death while in service.

(3) Any surviving spouse who would qualify for benefits pursuant to subdivision (1) or (2) of this subsection and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.370 to 86.497 in the absence of such remarriage.

(4) No surviving spouse of a member who retires or dies in service after August 28, 2000, shall be entitled to receive any benefits pursuant to sections 86.370 to 86.497 unless such spouse was married to the member at the time of the member's retirement or death in service. Any surviving spouse who was married to such a member at the time of the member's retirement or death in service shall be entitled to all benefits for surviving spouses pursuant to sections 86.370 to 86.497 for the life of such surviving spouse without regard to remarriage.

5. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate.

6. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

7. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

86.450. ACCIDENTAL DISABILITY PENSION — PERIODICAL EXAMINATIONS — EFFECT OF EARNINGS. — 1. Any member who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate and exclusive result of an accident

occurring within the actual performance of duty at some definite time and place or through an occupational disease arising exclusively out of and in the course of his or her employment shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement, a member shall receive a pension equal to [sixty] **seventy-five** percent of his or her final compensation for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a disability beneficiary. Such pension may be subject to offset or reduction under section 86.460 by amounts paid or payable under any workers' compensation law.

3. Once each year during the first five years following his or her retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any disability beneficiary who has not yet attained the age of sixty years, to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension pursuant to subsection 4 of this section, the former disability beneficiary is restored to active service, he or she shall again become a member, and he or she shall contribute thereafter at the same rate as other members. Upon his or her subsequent retirement, he or she shall be credited with all his or her service as a member, including any years in which such disability beneficiary received a disability pension pursuant to this section.

6. If upon cessation of a disability pension pursuant to subsection 4 of this section, the former disability beneficiary is not restored to active service, such former disability beneficiary shall be entitled to the retirement benefit to which such former disability beneficiary would have been entitled if such former disability beneficiary had terminated service for any reason other than dishonesty, intemperate habits or being convicted of a felony at the time of such cessation of such former disability beneficiary's disability pension. For the purpose of such retirement benefits, such former disability beneficiary will be credited with all the former disability beneficiary's service as a member, including any years in which the former disability beneficiary received a disability beneficiary pension under this section.

86.457. PENSION WHERE DISABILITY NOT EXCLUSIVELY CONNECTED WITH SERVICE

— **NONDUTY DISABILITY BENEFICIARY, PERIODIC EXAMINATIONS REQUIRED.** — 1. Any member who has completed ten or more years of creditable service and who has become permanently unable to perform the full and unrestricted duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence, shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the incapacity is permanent or likely to become permanent and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential

job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement, a member shall receive a pension equal to two **and one-half** percent of his final compensation multiplied by the number of years of his creditable service. Such pension shall be paid for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a nonduty disability beneficiary.

3. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained the age of sixty years, to undergo a medical examination at a place designated by the medical board or some member thereof. If any nonduty disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a nonduty disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's nonduty disability pension shall cease.

86.463. PENSION AFTER TEN YEARS' SERVICE, TERMINATION OF SERVICE BY COMMISSIONERS — PENSION AFTER FIFTEEN YEARS' SERVICE ON RESIGNATION, HOW CALCULATED. — 1. Whenever the service of a member is not terminated by death or retirement, but by order of the board of police commissioners for any reason other than dishonesty, intemperate habits or being convicted of a felony, and the member has not less than ten years of creditable service, the member shall become entitled to an annual pension beginning at the age of sixty, if he **or she** is then living, bearing the same ratio to fifty percent of his **or her** final compensation, as defined in section 86.370, that the number of years of creditable service bears to thirty. When the member has less than ten years of creditable service, upon termination of service he **or she** shall be paid the amount of his **or her** accumulated contributions in one lump sum payment without interest, which shall constitute payment in full of all benefits to which he **or she** might be entitled under sections 86.370 to 86.497.

2. Whenever the service of a member is not terminated by death or retirement, but by voluntary resignation and the member has not less than fifteen years of creditable service, the member may elect not to withdraw his **or her** accumulated contributions and shall become entitled to an annual pension beginning at the age of fifty-five, if he **or she** is then living, equal to two **and one-half** percent of his **or her** final compensation multiplied by the number of years of his **or her** creditable service. When the member has less than fifteen years of creditable service, upon resignation from service he **or she** shall be paid the amount of his **or her** accumulated contributions in one lump sum payment without interest, which shall constitute payment in full of all benefits to which he **or she** might be entitled under sections 86.370 to 86.497.

86.483. INVESTMENT OF FUNDS, BOARD AUTHORIZED TO MANAGE, DESIGNATE DEPOSITORY — PROCEDURES. — 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.370 to 86.497. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose

of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 86.370 to 86.497. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other properties. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited [at least annually] to the funds of the retirement system **at frequent intervals satisfactory to the retirement board**. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, **except as otherwise provided in this subsection**. No order shall be drawn unless it shall have previously been allowed by **a specific or an ongoing generalized** resolution of the retirement board. In the case of payments for **benefits**, services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment **other than payments to members or beneficiaries for benefits** shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board. All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board may contract with a bank or trust company to act as the custodian of the bonds and securities, in which case the retirement board may authorize [its secretary and treasurer, jointly,] **such custodian bank or trust company** to order purchases, loans or sales of investments by such custodian bank or trust company, **and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment**.

86.600. DEFINITIONS. — As used in sections 86.600 to 86.790, unless a different meaning is plainly required by the context, the following words and phrases mean:

- (1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other purpose permitted under sections 86.600 to 86.790 in all cases with interest thereon at a rate determined from time to time for such purpose by the retirement board;
- (2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of the mortality tables and interest rate as shall be adopted by the retirement board;
- (3) "Appointing authority", any person or group of persons having power by law to make appointments to any position in the police departments of the cities;
- (4) "Beneficiary", any person receiving a benefit from the retirement system as a result of the death of a member;

(5) "Compensation", the basic wage or salary paid an employee for any period, excluding bonuses, overtime pay, expense allowance, and other extraordinary compensation;

(6) "Creditable service", the period of service to which an employee, a former employee, or a member is entitled, as prescribed by sections 86.600 to 86.790;

(7) "Employee", any regularly appointed civilian employee of the police departments of the cities as specified in sections 86.600 to 86.790, who is not eligible to receive a pension from the police pension system;

(8) "Employer", the police boards of the cities as specified in sections 86.600 to 86.790;

(9) "Final compensation", the average annual compensation of a member during his **or her** service if less than two years, or the twenty-four months of his **or her** service for which he **or she** received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member under this subsection, no compensation attributable to any time a member was suspended from service without pay shall be included. **For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;**

(10) "Medical board", the board of physicians chosen by the retirement board;

(11) "Member", any member of the retirement system as provided by sections 86.600 to 86.790;

(12) "Normal retirement", retirement from the service of the employer on or after the normal retirement date;

(13) "Operative date", the date this retirement system becomes operative;

(14) "Pension", the annual payments for life which shall be payable in equal monthly installments to a member or his **or her** spouse;

(15) "Retirement board", the persons appointed or elected to be members of the retirement board for civilian employees of police departments of the cities;

(16) "Retirement system", the retirement system of the civilian employees of the cities as specified in sections 86.600 to 86.790;

(17) "Surviving spouse", the legally married wife or husband of a member surviving the member's death.

86.620. WHO SHALL BE MEMBERS — MEMBERSHIP VESTS, WHEN — TERMINATED EMPLOYEE WITH FIVE YEARS' SERVICE OPTION TO WITHDRAW CONTRIBUTION OR LEAVE IN FUND FOR PENSION — SPECIAL CONSULTANT, DUTY, COMPENSATION. — 1. [All civilian employees of the police departments of the cities specified herein] **Every person who becomes an employee, as defined in subdivision (7) of section 86.600, after August 28, 2001,** shall become [members] **a member** of the retirement system [on the first day of the month following completion of six months of continuous employment] **defined in sections 86.600 to 86.790** as a condition of **such** employment.

2. All civilian employees of such police departments who have completed six months of continuous employment as of August 13, 1990, but who have not theretofore been members of this retirement system because they were proscribed from participation by provisions of law in effect prior to such date, shall become members on that date.

3. Any employee described in subsection 2 of this section may establish creditable service for purposes of calculating such employee's pension under sections 86.600 to 86.790 for all years of such employee's employment by such police department, by paying as an employee contribution to the retirement system, on or before August 13, 1991, a single sum equal to the aggregate amount of contributions, without interest, which would have been deducted from such employee's compensation for all years pursuant to section 86.760 if such employee had not been proscribed from participation.

4. Except as provided in subsection 5 of this section, upon termination of employment prior to completion of five years of creditable service, an employee member shall be paid all of such

member's accumulated contributions to the fund, and such member's membership in the retirement system shall cease and such member shall forfeit all rights to any other benefits under the system arising from such member's service to date of termination.

5. A terminated employee member with five or more years of creditable service may choose to withdraw all of such member's accumulated contributions to the fund, in which case such member shall be paid upon demand the amount of such member's accumulated contributions in one lump payment and all provisions of subsection 4 of this section shall apply, or such terminated employee member may permit such member's contributions to remain in the fund until such member reaches such member's normal retirement date. Should a terminated member choose to withdraw his **or her** contributions, his **or her** membership in the retirement system shall cease, and he **or she** shall forfeit all rights to any other benefits under the system arising from his **or her** service to date of termination. The following shall apply to members described in this subsection:

(1) If such member retires after August 28, 1999, and allows such member's contributions to remain in the fund, such member shall be entitled to receive a pension upon such member's normal retirement date pursuant to section 86.650 or may elect to receive a pension commencing upon or after any date, prior to his **or her** normal retirement date, upon which early retirement would have been permitted pursuant to section 86.660 if such member had remained a civilian employee of such police department, except that in calculating any qualification pursuant to section 86.660, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted pursuant to section 86.660 shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable pursuant to section 86.660 upon which such member relies in electing the commencement of such member's pension;

(2) If such member retired on or before August 28, 1999, and allowed his **or her** contributions to remain in the fund, such member shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services the member shall, beginning the later of August 28, 1999, or the time of such appointment pursuant to this subsection, be entitled to elect to receive compensation in such amount and commencing at such time as such member would have been entitled to elect pursuant to any of the provisions of section 86.660 if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the commencement of such compensation as if such member's compensation had been a pension.

86.671. OFFSETS TO WORKERS' COMPENSATION PAYMENTS — RULEMAKING AUTHORIZED — MEMBER'S PERCENTAGE DEFINED. — 1. Any period payment, excluding payments for medical treatment, which may be paid or payable by the cities pursuant to the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against any benefits payable to the recipient of the workers' compensation payments from funds provided by the cities pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability or death. In no event, however, shall the amount paid from funds pursuant to the provisions of sections 86.600 to 86.790 be less than the amount which represents the member's percentage, as defined in subsection 4 of this section, of total benefits payable pursuant to sections 86.600 to 86.790, before any offset for workers' compensation benefits.

2. Any lump sum amount, excluding payments for medical treatments, which may be paid or payable by the cities pursuant to the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against any benefits payable from funds provided by the cities pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability or death. The amounts by which each periodic payment made pursuant to the provisions of sections 86.600 to 86.790 is offset or reduced shall be computed as the periodic amount necessary to amortize as an annuity over the period of time represented by the respective workers' compensation benefits the total amount of the lump sum settlement received as a workers' compensation benefit by a beneficiary of the retirement system. Such computation shall be based upon the same interest rate and mortality assumptions as used for the retirement system at the time of such computation. In no event, however, shall the amount paid from funds pursuant to the provisions of sections 86.600 to 86.790 be less than the amount which represents the member's percentage, as defined in subsection 4 of this section, of total benefits payable pursuant to sections 86.600 to 86.790, before any offset for workers' compensation benefits.

3. The retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section.

4. As used in this section, the term "member's percentage" shall be the fraction of which the numerator is the percentage of compensation contributed by a working member to the retirement pension system pursuant to section 86.760 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of percentages of a member's compensation contributed by a working member and the city pursuant to section 86.760 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due pursuant to the provisions of sections 86.600 to 86.790 which is deemed to have been provided by the member's own contributions.

86.675. COST-OF-LIVING ADJUSTMENT — TERMS DEFINED. — 1. Any member, as defined in subsection 4 of this section, who is entitled to a pension under sections 86.600 to 86.790 may receive, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such base pension during any one year, provided that the retirement system shall remain actuarially sound. The determination of whether the retirement system will remain actuarially sound shall be made at the time such cost-of-living adjustment is granted. If at any time the retirement system becomes actuarially unsound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this subsection if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

2. The cost-of-living adjustment provided by this section shall be an increase or decrease computed on the base pension amount by the retirement board in an amount that the board, in its discretion, determines to be satisfactory, but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension.

3. In determining and granting the cost-of-living adjustments provided by this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board, and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year.

4. As used in this section, the term "base pension" shall mean the pension computed under the provisions of the law as of the date of retirement of the member without regard to cost-of-living adjustment. As used in this section, the term "member" shall include:

- (1) A surviving spouse [who has not remarried:] **without regard to remarriage; and**
- (2) [Any children of a member who are entitled to receive part or all of the pension which would be received by a surviving spouse who had not remarried or died; and
- (3) A surviving spouse (whether or not remarried)] **A surviving spouse, without regard to remarriage**, who is receiving an optional annuity pursuant to an election pursuant to subsection 2 of section 86.650.

5. If a member who has been retired and receiving a pension dies after August 28, 2001, the surviving spouse of such member entitled to receive a base pension pursuant to section 86.690 shall also receive a percentage cost-of-living adjustment to his or her respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime pursuant to this section.

86.690. DEATH OF MEMBER PRIOR TO RETIREMENT, PAYMENTS MADE, HOW. — 1. Upon death **after August 28, 2001**, of a member for any cause prior to retirement, the following amounts shall be payable **subject to subsection 5 of this section**, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) [Should a surviving spouse remarry, benefits from this retirement system shall cease as of the first day of the month following such remarriage] **Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.**

(6) **No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.**

2. Upon death **following retirement for any cause after August 28, 2001**, of a member [following retirement for any cause] **who has not elected the optional annuity pursuant to section 86.650**, the member's surviving spouse shall receive a pension payable for life, [or until the first day of the month following remarriage,] equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, **subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage.** If there be no surviving spouse, payment of

the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualify for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

4. Should the total amount paid from the retirement system to a member, the member's surviving spouse and any other beneficiary of the member be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

86.750. BOARD SHALL BE TRUSTEES OF FUNDS — POWERS AND DUTIES. — 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.600 to 86.790. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the provisions of sections 86.600 to 86.790. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by the custodian in the name of the retirement system, or in the name of the nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited [at least annually] to the funds of the retirement system **at frequent intervals satisfactory to the retirement board**. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, **except as otherwise provided in this section**. No order shall be drawn unless it shall have previously been allowed by **a specific or an ongoing generalized** resolution of the retirement board. In the case of payments for **benefits, services, supplies or similar items** in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment **other than payments to members or beneficiaries for benefits** shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board. All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board may contract with a bank or trust company to act as a custodian of the bonds and securities, in which case the retirement board may authorize [its secretary and treasurer, jointly,] **such custodian bank or trust company** to order purchases, loans or sales of investments by such custodian bank or trust company, **and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment.**

86.780. FUND MONEYS EXEMPT FROM EXECUTION — NOT ASSIGNABLE, EXCEPT FOR SUPPORT OBLIGATIONS. — The [right of any person to a benefit accruing under the provisions of sections 86.600 to 86.790 and to the] moneys in the various funds created [under] **pursuant to sections 86.600 to 86.790 are hereby exempt from any tax of the state of Missouri or of any other municipality or political subdivision thereof. Neither such funds, nor the right of any person to a benefit accruing pursuant to the provisions of sections 86.600 to 86.790** shall [not] be subject to execution, garnishment, attachment, or to any other process whatsoever and the right shall be unassignable except as specifically provided in sections 86.600 to 86.790 and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.600 to 86.790. A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment, such as a request to apply some portion of a benefit payment to a medical insurance premium, shall not be deemed an assignment prohibited pursuant to this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.

87.120. DEFINITIONS. — The following words and phrases as used in sections 87.120 to 87.370, unless a different meaning is plainly required by the context, have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and credited to his **or her** individual account in the members' savings fund together with interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of such mortality tables and interest rate as shall be adopted by the board of trustees;

(3) "Average final compensation", the average earnable compensation of the member during his **or her** last two years of service as a [fireman] **firefighter**, or if [he] **the firefighter** has less than two years of service, then the average earnable compensation of his **or her** entire period of service;

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit as provided by sections 87.120 to 87.370;

- (5) "Benefit reserve", the present value of all payments to be made on account of any retirement allowance or benefit in lieu of a retirement allowance upon the basis of such mortality tables and interest rate as shall be adopted by the board of trustees;
- (6) "Board of trustees", the board provided for in section 87.140 to administer the retirement system;
- (7) "City", any city not within a county and adopting the retirement system provided by sections 87.120 to 87.370;
- (8) "Creditable service", prior service plus membership service as provided in section 87.135;
- (9) "DROP", the deferred retirement option plan provided in section 87.182;
- (10) "Earnable compensation", the regular compensation which a member would earn during one year on the basis of the stated compensation for his **or her** rank or position;
- (11) "[Fireman] **firefighter**", any officer or employee of the fire department of the city employed by the city for the duty of fighting fires, but does not include anyone employed in a clerical or other capacity not involving fire-fighting duties. In case of doubt as to whether any person is a [fireman] **firefighter** within the meaning of sections 87.120 to 87.370, the decision of the board of trustees shall be final;
- (12) "Medical board", the board of physicians provided for in section 87.160;
- (13) "Member", a member of the retirement system as defined by section 87.130;
- (14) "Membership service", service as a [fireman] **firefighter** rendered since last becoming a member;
- (15) "Prior service", all service as a [fireman] **firefighter** rendered prior to the date the system becomes operative which is creditable in accordance with the provisions of section 87.135;
- (16) "Retirement allowance", annual payments for life which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon retirement or to a beneficiary;
- (17) "Retirement system", the [firemen's] **firefighter's** retirement system of any city as defined in section 87.125[;
- (18) "Widow", the surviving spouse of a member].

87.130. MEMBERSHIP REQUIREMENTS. — 1. All persons who are [firemen] **firefighters** shall be members as a condition of their employment and shall receive no pension or retirement allowance from any other pension or retirement system supported wholly or in part by the city or the state of Missouri because of years of service for which they are entitled to benefits under this system nor shall they be required to make contributions under any other pension or retirement system of the city or the state of Missouri, anything to the contrary notwithstanding.

2. If any member, in any period of five consecutive years after last becoming a member, is absent from service for more than four years unless the member has twenty years or more of creditable service, or if any member withdraws the member's accumulated contributions, or if any member becomes a beneficiary, the person shall thereupon cease to be a member; except in the case of a member who has served in the armed forces of the United States or retired pursuant to section 87.170 and is subsequently reinstated as a [fireman] **firefighter** or as a member in beneficiary status as a [widow] **surviving spouse**.

3. Any member who is reinstated after retiring pursuant to conditions in section 87.170 shall not be eligible to participate in the benefit provided pursuant to section 87.182.

87.135. MEMBERS SHALL FILE DETAILED ACCOUNT OF SERVICE — VERIFICATION OF SERVICE AND ISSUANCE OF SERVICE CERTIFICATE. — 1. Under such rules and regulations as the board of trustees shall adopt, each member who was a [fireman] **firefighter** on and prior to the date of the establishment of the retirement system shall file a detailed statement of all service

as a [fireman] **firefighter** rendered by him **or her** prior to that date for which [he] **the firefighter** claims credit.

2. The board of trustees shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board of trustees allow credit as service for any period of more than one month's duration during which the member was absent without pay.

3. Subject to the above restrictions and to such other rules and regulations as the board of trustees may adopt, the board of trustees shall verify the service claims as soon as practicable after the filing of the statement of service.

4. Upon verification of the statements of service the board of trustees shall issue prior service certificates, certifying to each member the length of prior service with which [he] **the member** is credited on the basis of his **or her** statement of service. So long as the holder of the certificate continues to be a member, a prior service certificate shall be final and conclusive for retirement purposes as to such service, except that any member may, within one year from the date of issuance or modification of the certificate, request the board of trustees to modify or correct [his] **the member's** prior service certificate, and upon such request or of its own motion the board may correct the certificate. When any [fireman] **firefighter** ceases to be a member his **or her** prior service certificate shall become void. Should he **or she** again become a member, he **or she** shall enter the retirement system as a member not entitled to prior service credit except as provided in section 87.215.

5. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of creditable membership service rendered by him **or her**, and also if [he] **the member** has a prior service certificate which is in full force and effect, the amount of the service certified on [his] **the member's** prior service certificate. Service rendered by a [fireman] **firefighter** after the operative date and prior to becoming a member shall be included as creditable membership service provided the service was rendered since he **or she** last became a [fireman] **firefighter**.

87.170. CONDITIONS OF RETIREMENT. — Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

(1) Any member may retire upon the member's written application to the board of trustees setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing therefor, the member desires to be retired, if the member at the time so specified for such member's retirement has twenty-five years or more of service; except that a member who ceases to be a [fireman] **firefighter** after twenty years or more of service may retire prior to the twenty-five years of service with a retirement allowance based on the member's years of service;

(2) Any member in service upon attaining the age of sixty, if qualifying for a service retirement allowance equal to seventy-five percent of the average final compensation, shall be retired forthwith; except that with respect to any member, the board shall not retire such member when the member attains sixty years of age or more merely because the member has attained that age unless the member so requests or the member has completed thirty or more years of service, even if a portion of such service is not creditable service pursuant to participation in the deferred retirement option plan prescribed by section 87.182;

(3) Any member who qualifies for a service retirement allowance of seventy-five percent or over and has not attained sixty years of age may be retained as a member until sixty years of age, with no increase in retirement allowance.

87.185. MILITARY SERVICE DURING WAR CREDITED. — If, at any time since first becoming a member of the retirement system, a member has served in the armed forces of the United States, in any war or period of armed hostilities between the armed forces of the United

States and those of a foreign power, and is subsequently reinstated as a [fireman] **firefighter** within ninety days after his **or her** discharge, [he] **the member** shall be granted credit for such service as if his **or her** service in the fire department of the city had not been interrupted by his **or her** induction into the armed forces of the United States, and as if [he] **the member** had made the required contributions during such service. If earnable compensation is needed for such period in computation of benefits it shall be calculated on the basis of the compensation payable to the officers of his **or her** rank during the period of his **or her** absence.

87.205. ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE. — 1. Upon retirement for accidental disability, a member shall receive seventy-five percent of the pay then provided by law for the highest step in the range of salary for the title or rank held by such member at the time of such retirement unless the member is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever and is continuously confined to the member's home except for visits to obtain medical treatment, in which event the member may receive, in the discretion of the board of trustees, a retirement allowance in an amount not exceeding the member's rate of compensation as a [fireman] **firefighter** in effect as of the date the allowance begins.

2. Anyone who has retired pursuant to the provisions of section 87.170 and has been reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as provided in section 87.200, shall receive a total benefit which is the higher of either the disability pension or the service pension.

87.215. REDUCTION AND SUSPENSION OF PENSION, WHEN. — 1. If the medical board reports and certifies to the board of trustees that the disability beneficiary is engaged or is able to engage in a gainful occupation other than [fireman] **firefighter** paying more than the difference between his **or her** retirement allowance and one and one-half times the then current rate of pay for the rank held by the member at the time of retirement, and if the board of trustees concurs in the report, then the amount of his **or her** retirement allowance shall be reduced to an amount which together with the amount earnable by him **or her** in such other occupation shall equal the amount of such current rate of pay. If his **or her** earning capacity is later changed, the amount of his **or her** retirement may be further modified. If any such disability beneficiary is found by such medical board to be able to engage in the occupation of [fireman] **firefighter**, his **or her** retirement allowance shall not cease until he **or she** is restored to active service at the position and title held by such disability beneficiary at the time such disability occurred.

2. If a disability beneficiary is restored to active service, his **or her** retirement allowance shall cease and he **or she** shall again become a member. His **or her** creditable service at the time of his **or her** retirement shall be restored to full force and effect and in addition, upon his **or her** subsequent retirement, he **or she** shall be credited with all his **or her** additional service as a member, and if his **or her** then average final compensation is less than the average final compensation used in determining his **or her** disability benefits, the latter amount shall be used in determining benefits. In addition, an accident disabled member restored to active service shall be credited with all the time he **or she** has served as a beneficiary.

87.237. RETIREE TO BECOME SPECIAL ADVISOR, WHEN, COMPENSATION. — 1. Any person who served as a [fireman] **firefighter** and who is retired and receiving a retirement allowance of less than one hundred percent of the federal poverty level for a single person as set and updated by the United States Department of Health and Human Services or its successor agency may act as a special advisor to the retirement system.

2. For the additional service as a special advisor, each retired person shall receive, in addition to the retirement allowance provided [under] **pursuant to** this chapter, an additional amount, which amount, together with the retirement allowance he **or she** is receiving [under]

pursuant to other provisions of this chapter, shall equal, but not exceed, one hundred percent of the federal poverty level for a single person as set and updated by the United States Department of Health and Human Services or its successor agency. Any retirement allowance paid to a retiree **[under] pursuant to** this subsection shall be withdrawn from the **[firemen's] firefighters'** retirement and relief system fund and no moneys shall be withdrawn from the general revenue fund of any city not within a county.

87.240. ACCUMULATED CONTRIBUTIONS TO BE REFUNDED, WHEN. — If a member ceases to be a **[fireman] firefighter** except by death or retirement, **[he] the firefighter** shall be paid on demand the amount of his **or her** accumulated contributions standing to the credit of his **or her** individual account in the members' savings fund, and such a member who has left his **or her** contributions with the system may later withdraw his **or her** accumulated contributions at any time prior to the beginning of his **or her** retirement benefits.

87.288. RETIRED FIREFIGHTER NOT RECEIVING COST-OF-LIVING BENEFIT, SPECIAL CONSULTANT — COMPENSATION, AMOUNT. — 1. Any person who served as a **[fireman] firefighter** who is retired and not receiving a cost-of-living benefit and any **[widow] surviving spouse** or dependent child receiving retirement benefits, but not receiving a cost-of-living benefit shall be made, constituted, and appointed as a special consultant on the problems of retirement, aging, and other state matters, and be available to give opinion in writing or orally, in response to such requests as may be required and for such services shall be compensated annually in accordance with the provisions of subsection 2 of this section.

2. Effective September 1, 1996, and annually thereafter, one-half of the annual interest earned in the future benefits fund created **[under] pursuant to** section 87.287 shall be appropriated to provide an ad hoc COLA administered by the board of trustees and from September 1, 2016, and annually thereafter three-fourths of the annual interest earned in the future benefits fund created **[under] pursuant to** section 87.287 shall be appropriated to provide an ad hoc COLA administered by the board of trustees based upon the formula in this subsection. The distributable amount shall be divided by the number of retirees and surviving spouses and dependent children eligible to receive the ad hoc COLA **[under] pursuant to** this provision calculated and distributed based upon the following years of service:

(1) Members retiring with thirty or more years of service shall receive a full share of the distributable amount;

(2) Members retiring with twenty-five or more years of service but less than thirty years shall receive a three-quarter share of the distributable amount;

(3) Members retiring with less than twenty-five years shall receive a one-half share of the distributable amount;

(4) Surviving spouses and dependent children shall receive one-half of the ad hoc COLA the member would have been entitled to receive.

87.310. REPAYMENT WITH INTEREST OF CONTRIBUTIONS WITHDRAWN ON REINSTATEMENT OF MEMBER. — When any member terminates his **or her** employment as a **[fireman] firefighter** and withdraws his **or her** accumulated contributions from the retirement system, he **or she** ceases to be a member of the retirement system. If he **or she** is reinstated as a **[fireman he] firefighter he or she** will again become a member of the retirement system as a new member with no creditable service prior to his **or her** termination. However, any member currently employed as a **[fireman] firefighter** may repay the retirement system his **or her** total accumulated contribution withdrawn at the time of his **or her** termination and an amount of interest on such contribution at the same rate per annum as allowed in the member's savings account in the same period. Such repayment shall occur within two years after August 13, 1984, and when made the member shall then receive full credit for service prior to the date of his **or her** termination.

87.371. UNUSED SICK LEAVE, HOW CREDITED. — 1. Any member retiring pursuant to the provisions of sections 87.120 to 87.370, after working continuously for an entity covered by sections 87.120 to 87.370, until reaching retirement age, but not including retirement for service-connected disability, shall be credited with all of the member's unused sick leave as certified by the member's employing entity.

2. No member working on or after [June 1, 1999] **July 1, 2000**, shall be credited with sick leave at a rate less than **or more than** the rate being earned on [June 1, 1999] **July 1, 2000**, nor shall any cap or limit applied to accumulated sick leave after [June 1, 1999] **July 1, 2000**, be construed as a limit on the number of sick days actually earned without reference to the cap or limit which may be credited pursuant to the provisions of this section. When calculating years of service, each member shall be entitled to one day of creditable service for each day of unused accumulated sick leave earned by the member.

3. Accumulated sick leave shall allow a member to vest in the retirement system by using such credited sick leave to reach the time of vesting and shall also allow a member to exceed a seventy-five percent service retirement allowance by adding accumulated sick leave to no more than thirty years of creditable service or a member who is participating in the DROP program established in section 87.182 may elect upon retirement to have placed in his or her DROP account a dollar amount equal to his or her accumulated number of sick leave hours multiplied by his or her hourly rate of pay at the time of retirement, **or to place one-half of this dollar amount in the member's DROP account, to have one-fourth of this dollar amount added to the member's average final compensation, and to have the remaining one-fourth of this dollar amount remain as time and added to the member's creditable service.**

87.615. RETIRED FIREMEN OR THEIR BENEFICIARIES NOT COVERED BY RETIREMENT SYSTEM MAY BE EMPLOYED BY CERTAIN CITIES AS CONSULTANTS, DUTIES, COMPENSATION (ST. JOSEPH). — 1. Any firefighter who has retired or who retires and was not or is not a member of the retirement system governed by sections 70.600 to 70.755, RSMo, and any beneficiary of any such firefighter shall, upon application to any city with a population of at least seventy thousand located in a county of the first classification without a charter form of government, be made, constitutionally appointed, and employed by the city as a special consultant on the problems of retirement and upon request of the city council, shall give opinions and be available to give opinions in writing or orally in response to requests of the city council. As compensation for the services required by this section, the city may directly compensate the retired firefighter or beneficiary thereof in an amount established by ordinance of the city. Such amount of additional compensation may be paid directly by the city to each qualified retiree or beneficiary and shall not be considered employer contributions to the local government retirement system nor benefits paid therefrom.

2. Notwithstanding any other law to the contrary, beginning August 29, 2001, any beneficiary of a firefighter who had retired or who retires and was not or is not a member of the retirement system governed by sections 70.600 to 70.755, RSMo, shall upon application to any city with a population of at least seventy thousand located in a county of the first classification without a charter form of government, be made, constitutionally appointed, and employed by the city as a special consultant on the problems of retirement and upon request of the city council, shall give opinions and be available to give opinions in writing or orally in response to request of the city council. As compensation for the services required by this section, the city may directly compensate the beneficiary thereof by continuing the death benefit payment upon remarriage of the beneficiary. Such amount of compensation may be paid directly by the city to each qualifying special consultant and shall not be considered employer contributions to the local government employees retirement system nor benefits paid therefrom.

SECTION 1. CONTACT INFORMATION FOR RETIRED MEMBERS TO BE PROVIDED, WHEN (ST. LOUIS CITY). — Notwithstanding the provisions of sections 610.010 to 610.035, RSMo, to the contrary, any retirement plan as defined in section 105.660, RSMo, located in a city not within a county, providing retirement benefits for general employees shall provide, upon request by any retiree organization, sufficient information enabling such organization to contact retired members.

Approved July 12, 2001

SB 295 [SB 295]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises uses of capital funds for public community colleges.

AN ACT to repeal section 163.191, RSMo 2000, relating to allowable costs for state aid to community colleges, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

163.191. State aid to community colleges — distribution to be based on resource allocation model, adjustment annually, factors involved — report on effectiveness of model, due when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 163.191, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 163.191, to read as follows:

163.191. STATE AID TO COMMUNITY COLLEGES — DISTRIBUTION TO BE BASED ON RESOURCE ALLOCATION MODEL, ADJUSTMENT ANNUALLY, FACTORS INVOLVED — REPORT ON EFFECTIVENESS OF MODEL, DUE WHEN. — 1. Each year public community colleges in the aggregate shall be eligible to receive from state funds, if state funds are available and appropriated, an amount up to but not more than fifty percent of the state community colleges' planned operating costs as determined by the department of higher education. As used in this subsection, the term "year" means from July first to June thirtieth of the following year. As used in this subsection, the term "operating costs" means all costs attributable to current operations, including all direct costs of instruction, instructors' and counselors' compensation, administrative costs, all normal operating costs and all similar noncapital expenditures during any year, excluding costs of construction of facilities and the purchase of equipment, furniture, and other capital items authorized and funded in accordance with subsection 2 of this section. Operating costs shall be computed in accordance with accounting methods and procedures to be specified by the department of higher education. The department of higher education shall review all institutional budget requests and prepare appropriation recommendations annually for the community colleges under the supervision of the department. The department's budget request shall include a recommended level of funding. Distribution of appropriated funds to community college districts shall be in accordance with the community college resource allocation model. This model shall be developed and revised as appropriate cooperatively by the community colleges and the department of higher education. The department of higher education shall recommend the model to the coordinating board for higher education for their approval. The

core funding level for each community college shall initially be established at an amount agreed upon by the community colleges and the department of higher education. This amount will be adjusted annually for inflation, limited growth, and program improvements in accordance with the resource allocation model starting with fiscal year 1993. The department of higher education shall request new and separate state aid funds for any new districts for their first six years of operation. The request for the new districts shall be based upon the same level of funding being provided to the existing districts, and should be sufficient to provide for the growth required to reach a mature enrollment level. The department of higher education will be responsible for evaluating the effectiveness of the resource allocation model and will submit a report to the speaker of the house of representatives and president pro tem of the senate by November 1997, and every four years thereafter.

2. In addition to state funds received for operating purposes, each community college district shall be eligible to receive an annual appropriation for the cost of maintenance and repair of facilities and grounds, **including surface parking areas**, and purchases of equipment and furniture. Such funds shall not exceed in any year an amount equal to ten percent of the state appropriations to community college districts for operating purposes during the most recently completed fiscal year. The department of higher education may include in its annual appropriations request the necessary funds to implement the provisions of this subsection and when appropriated shall distribute the funds to each community college district as appropriated. The department of higher education appropriations request shall be for specific maintenance, repair, and equipment projects at specific community college districts, shall be in an amount of fifty percent of the cost of a given project as determined by the coordinating board and shall be only for projects which have been approved by the coordinating board through a process of application, evaluation and approval as established by the coordinating board. The coordinating board, as part of its process of application, evaluation, and approval, shall require the community college district to provide proof that the fifty-percent share of funding to be defrayed by the district is either on hand or committed for maintenance, repair, and equipment projects. Only salaries or portions of salaries paid which are directly related to approved projects may be used as a part of the fifty-percent share of funding.

3. School districts offering two-year college courses pursuant to section 178.370, RSMo, on October 31, 1961, shall receive state aid pursuant to subsections 1 and 2 of this section if all scholastic standards established pursuant to sections 178.770 to 178.890, RSMo, are met.

4. In order to make postsecondary educational opportunities available to Missouri residents who do not reside in an existing community college district, community colleges organized pursuant to section 178.370, RSMo, or sections 178.770 to 178.890, RSMo, shall be authorized pursuant to the funding provisions of this section to offer courses and programs outside the community college district with prior approval by the coordinating board for higher education. The classes conducted outside the district shall be self-sustaining except that the coordinating board shall promulgate rules to reimburse selected out-of-district instruction only where prior need has been established in geographical areas designated by the coordinating board for higher education. Funding for such off-campus instruction shall be included in the appropriation recommendations, shall be determined by the general assembly and shall continue, within the amounts appropriated therefor, unless the general assembly disapproves the action by concurrent resolution.

5. A "community college" is an institution of higher education deriving financial resources from local, state, and federal sources, and providing postsecondary education primarily for persons above the twelfth grade age level, including courses in:

- (1) Liberal arts and sciences, including general education;
- (2) Occupational, vocational-technical; and
- (3) A variety of educational community services.

Community college course offerings lead to the granting of certificates, diplomas, and/or associate degrees, but do not include baccalaureate or higher degrees.

6. When distributing state aid authorized for community colleges, the state treasurer may, in any year if requested by a community college, disregard the provision in section 30.180, RSMo, requiring the state treasurer to convert the warrant requesting payment into a check or draft and wire transfer the amount to be distributed to the community college directly to the community college's designated deposit for credit to the community college's account.

Approved June 8, 2001

SB 301 [SCS SB 301]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Missouri Western to convey property to the University of Missouri.

AN ACT to authorize the conveyance of property owned by Missouri Western State College to the University of Missouri Extension Council of Buchanan County for use as an extension office.

SECTION

1. Conveyance of property by Missouri Western State College to the University of Missouri Extension Council of Buchanan County.
2. Consideration for conveyance — instrument of conveyance, conditions.
3. Attorney general to approve form of conveyance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY MISSOURI WESTERN STATE COLLEGE TO THE UNIVERSITY OF MISSOURI EXTENSION COUNCIL OF BUCHANAN COUNTY. — The board of governors of Missouri Western State College is hereby authorized to convey by warranty deed or other appropriate instrument, as the board determines appropriate, its right, title and interest in the real estate to the University of Missouri Extension Council of Buchanan County, a tract of approximately three and one-half acres out of the following described real estate and interest in real estate in the County of Buchanan, State of Missouri, to wit:

A parcel of land located in Section 14, Township 57, Range 35N which is the northeast one-fourth of Section 14 lying west of Interstate 29.

The exact legal description shall be determined by survey and shall be approved by the board of regents of Missouri Western State College.

SECTION 2. CONSIDERATION FOR CONVEYANCE — INSTRUMENT OF CONVEYANCE, CONDITIONS. — Consideration for the conveyance shall be as negotiated by the parties. The instrument of conveyance shall reserve a reversionary interest in the Missouri Western State College if the University of Missouri Extension Council of Buchanan County ceases to use the property described in section 1 of this act. In addition, the instrument of the conveyance shall contain such other restrictions, reversionary clauses, and conditions as are deemed necessary by the board of regents of Missouri Western State College to protect the interest of the college or the state.

SECTION 3. ATTORNEY GENERAL TO APPROVE FORM OF CONVEYANCE. — The attorney general shall approve as to form the instrument of conveyance.

Approved July 10, 2001

SB 303 [SB 303]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows school districts to directly enter into lease purchases with vendors.

AN ACT to amend chapter 177, RSMo, by adding thereto one new section relating to school lease purchases.

SECTION

- A. Enacting clause.
177.082. Lease purchase agreements permitted, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 177, RSMo, is amended by adding thereto one new section, to be known as section 177.082, to read as follows:

177.082. LEASE PURCHASE AGREEMENTS PERMITTED, WHEN. — The school board may purchase apparatus, equipment and furnishings for its schools and operations by entering into lease purchase agreements with vendors. Any agreement which may result in school district ownership of the leased object must contain a provision which allows the district an option to terminate the agreement on at least an annual basis without penalty. All expenditures related to lease purchase agreements shall be considered expenditures for capital outlay and shall be made pursuant to the provisions of section 165.011, RSMo.

Approved July 10, 2001

SB 316 [SB 316]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires school retirement systems to promulgate joint rules.

AN ACT to amend chapter 169, RSMo, by adding thereto one new section relating to certain school retirement systems.

SECTION

- A. Enacting clause.
169.569. Joint rules promulgated, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 169, RSMo, is amended by adding thereto one new section, to be known as section 169.569, to read as follows:

169.569. JOINT RULES PROMULGATED, PROCEDURE. — 1. In accordance with the recommendations made pursuant to section 169.566, the public school retirement system of Missouri, the public school retirement system of the Kansas City school district, the

public school retirement system of the St. Louis city school district and the nonteacher school employee retirement system of Missouri created pursuant to this chapter shall promulgate joint rules, which shall provide for the recognition of service toward retirement eligibility rendered by certified and noncertified personnel under any of the four systems. Such rules shall be limited to creditable service established with each system and shall in no event permit any transfer of creditable service or system assets.

2. Rules required pursuant to subsection 1 of this section shall be approved, and may be amended, by a majority of all of the trustees of each board of the four retirement systems. At least thirty days prior to the meeting of any board of one of the four retirement systems to vote on approving or amending such rules, a copy of the proposed rules or amendments shall be filed with the joint committee on public employee retirement.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

Approved July 10, 2001

SB 317 [SCS SB 317]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts used manufactured homes and certain used modular units from complying with manufactured housing codes.

AN ACT to repeal sections 700.015, 700.025, 700.045, 700.050, 700.090 and 700.100, RSMo 2000, relating to housing, and to enact in lieu thereof fourteen new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 324.700. Definitions.
- 324.703. License required for persons engaged in the business of housemoving.
- 324.706. License issued, when.
- 324.709. Effective date of license — annual renewal.
- 324.712. Certificate of insurance required — notification to division, when.
- 324.715. Special permit required, issued when — license not required, when.
- 324.742. Violations, penalty.
- 324.745. Severability clause — applicability exceptions.
- 700.015. Code compliance required, when — seal required — exemptions from code requirements for sale of new recreational vehicles and park trailers.
- 700.025. Alteration of unit with seal, prohibited when.
- 700.045. Certain acts declared misdemeanors.
- 700.050. Issuance of seals to manufacturer suspended, when — removal of attached seal, when.
- 700.090. Manufacturers and dealers to register — commission to issue certificate, when — registration to be renewed, when, fee — renewals may be staggered.
- 700.100. Refusal to renew, grounds, notification to applicant, contents — complaints may be considered.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 700.015, 700.025, 700.045, 700.050, 700.090 and 700.100, RSMo 2000, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 324.700, 324.703, 324.706, 324.709, 324.712, 324.715, 324.742, 324.745, 700.015, 700.025, 700.045, 700.050, 700.090 and 700.100, to read as follows:

324.700. DEFINITIONS. — As used in sections 324.700 to 324.745, unless the context provides otherwise, the following terms shall mean:

- (1) "Division", the division of motor carrier and railroad safety;
- (2) "House", a dwelling or other structure intended for human habitat in excess of fourteen feet in width. A house does not include a manufactured home as defined in section 700.010, RSMo, or a modular unit;
- (3) "Housemover", a person actively engaged on a full-time basis in the intrastate movement of houses on public roads and highways of this state;
- (4) "Housemoving", engaging actively and directly on a full-time basis in the intrastate movement of houses on public roads and highways of this state;
- (5) "Person", an individual, corporation, partnership, association or any other business entity.

324.703. LICENSE REQUIRED FOR PERSONS ENGAGED IN THE BUSINESS OF HOUSE-MOVING. — All persons who engage in the business of housemoving on the roads and highways of this state shall be licensed by the division of motor carrier and railroad safety.

324.706. LICENSE ISSUED, WHEN. — The division shall issue licenses to applicants meeting the following conditions:

- (1) The applicant must be at least eighteen years of age, possess a valid commercial driver's license and have at least twenty-four months experience in moving houses;
- (2) The applicant must furnish proof that all of the vehicles to be used in the movement of houses have met the requirements of sections 307.350 to 307.400, RSMo, or its equivalent pertaining to the inspection of motor vehicles;
- (3) The applicant must exhibit his federal employer's identification number; and
- (4) The applicant must pay an annual license fee of one hundred dollars. All moneys received for housemover licenses shall be paid to and collected by the division of motor carrier and railroad safety and transmitted to the director of revenue and deposited in the state treasury to the credit of the state highways and transportation fund as established in section 226.200, RSMo.

324.709. EFFECTIVE DATE OF LICENSE — ANNUAL RENEWAL. — A license issued pursuant to sections 324.700 to 327.742 shall be effective for a period of one year from the date of issuance and shall be renewable on an annual basis.

324.712. CERTIFICATE OF INSURANCE REQUIRED — NOTIFICATION TO DIVISION, WHEN. — 1. No license shall be issued or renewed unless the applicant files with the division a certificate or certificates of insurance from an insurance company or companies authorized to do business in this state. The applicant must demonstrate that he or she has:

- (1) Motor vehicle insurance for bodily injury to or death of one or more persons in any one accident and for injury or destruction of property of others in any one accident with minimum amount of coverage established by the division by rule;
- (2) Comprehensive general liability insurance with a minimum level of coverage established by the division by rule, including coverage of operations on state streets and highways that are not covered by motor vehicle insurance; and

(3) Workers' compensation insurance that complies with chapter 287, RSMo, for all employees.

2. The certificate or certificates shall provide for continuous coverage during the effective period of the license issued pursuant to this section. At the time the certificate is filed, the applicant shall also file with the division a current list of all motor vehicles covered by the certificate. The applicant shall file amendments to the list within fifteen days of any changes.

3. An insurance company issuing any insurance policy required by this section shall notify the division of any of the following events at least thirty days before its occurrence:

- (1) Cancellation of the policy;
- (2) Nonrenewal of the policy by the company; or
- (3) Any change in the policy.

4. In addition to all coverages required by this section, the applicant shall file with the division a copy of either:

(1) A bond or other acceptable surety providing coverage in the amount of fifty thousand dollars for the benefit of a person contracting with the housemover to move that person's house for all claims for property damage arising from the movement of a house; or

(2) A policy of cargo insurance in the amount of one hundred thousand dollars.

324.715. SPECIAL PERMIT REQUIRED, ISSUED WHEN — LICENSE NOT REQUIRED, WHEN.

— 1. Persons licensed as housemovers shall also be required to secure a special permit, as provided for pursuant to section 304.200, RSMo, from the chief engineer of the department of highways and transportation for every move undertaken on the state highway system.

2. A license shall not be required for individuals moving their own houses from or to property owned individually by those person; however, a special permit will be required for all moves.

324.742. VIOLATIONS, PENALTY. — Any person violating sections 324.700 to 324.745 or the regulations of the division or department of transportation shall be guilty of a class A misdemeanor.

324.745. SEVERABILITY CLAUSE — APPLICABILITY EXCEPTIONS. — 1. If any provisions of sections 324.700 to 324.745, or if the application of such provisions to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision of sections 324.700 to 324.745 other than those as to which it is held valid, shall not be affected thereby.

2. Nothing in sections 324.700 to 324.745 shall be construed to limit, modify or supercede the standards governing the intrastate or interstate movement of property pursuant to 49 U.S.C. 14501 or 49 U.S.C. 14504.

3. The provisions of sections 324.700 to 324.745 shall not apply to housemovers engaged in the interstate movement of houses. Those engaged in the interstate movement of houses, however, shall comply with all applicable provisions of federal and state law with respect to the movement of such property.

700.015. CODE COMPLIANCE REQUIRED, WHEN — SEAL REQUIRED — EXEMPTIONS FROM CODE REQUIREMENTS FOR SALE OF NEW RECREATIONAL VEHICLES AND PARK TRAILERS. — 1. No person shall rent, lease, sell or offer for sale any new manufactured home manufactured after January 1, 1974, unless such manufactured home complies with the code and bears the proper seal.

2. No person shall manufacture in this state any manufactured home or modular unit for rent, lease or sale within the state which does not bear a seal evidencing compliance with the code.

3. Unless otherwise required by federal law or regulations, nothing in sections 700.010 to 700.115 shall apply to a manufactured home or modular unit being built expressly for export and sold for use solely outside this state.

4. No person shall offer for rent, lease or sale a **new** modular unit **or a unit used for educational purposes** manufactured after January 1, 1974, unless such modular unit complies with the code and bears a seal issued by the commission evidencing compliance with the code.

5. No manufacturer shall sell or offer for sale within this state:

(1) Any new recreational vehicle that is not manufactured in compliance with the American National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles; or

(2) Any new recreational park trailer that is not manufactured in compliance with the American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers.

700.025. ALTERATION OF UNIT WITH SEAL, PROHIBITED WHEN. — No [person] **dealer, manufacturer or their representative** shall alter or cause to be altered any **new** manufactured home or modular unit **or used modular unit used for educational purposes** to which a seal has been affixed, if such alteration or conversion causes the manufactured home or modular unit to be in violation of the code.

700.045. CERTAIN ACTS DECLARED MISDEMEANORS. — It shall be a misdemeanor:

(1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any manufactured home or modular unit after January 1, 1977, unless there is in effect a registration with the commission;

(2) To rent, lease, sell or offer to sell any **new** manufactured home or **new** modular unit **or used modular unit used for educational purposes** manufactured after January 1, 1974, which does not bear a seal as required by sections 700.010 to 700.115;

(3) To affix a seal or cause a seal to be affixed to any manufactured home or modular unit which does not comply with the code;

(4) To alter a manufactured home or modular unit in a manner prohibited by the provisions of sections 700.010 to 700.115;

(5) To fail to correct **within a reasonable time not to exceed ninety days after being ordered to do so in writing by an authorized representative of the commission** a code violation in a **new** manufactured home or **new** modular unit **or used modular unit used for educational purposes** owned, manufactured or sold [within a reasonable time not to exceed ninety days after being ordered to do so in writing by an authorized representative of the commission,] if the same is manufactured after January 1, 1974; or

(6) To interfere with, obstruct, or hinder any authorized representative of the commission in the performance of his **or her** duties.

700.050. ISSUANCE OF SEALS TO MANUFACTURER SUSPENDED, WHEN — REMOVAL OF ATTACHED SEAL, WHEN. — The issuance of seals to any manufacturer in violation of the provisions of sections 700.010 to 700.115 may be suspended by the commission and no further seals shall be issued to any such manufacturer except upon proof satisfactory to the commission that the conditions which brought about the violation have been remedied. Seals remain the property of the state and may be removed by the commission from any **new** manufactured home or **new** modular unit **or used modular unit used for educational purposes** which is in violation of the code.

700.090. MANUFACTURERS AND DEALERS TO REGISTER — COMMISSION TO ISSUE CERTIFICATE, WHEN — REGISTRATION TO BE RENEWED, WHEN, FEE — RENEWALS MAY BE

STAGGERED. — 1. Every manufacturer or dealer of manufactured homes who sells or offers for sale, on consignment or otherwise, a manufactured home or modular unit from or in the state of Missouri shall register **each location** with the commission.

2. The commission shall issue a certificate of registration to a manufacturer who:

(1) Completes and files with the commission an application for registration which contains the following information:

(a) The name of the manufacturer;

(b) The address of the manufacturer and addresses of each factory owned or operated by the manufacturer, if different from the address of the manufacturer;

(c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, and proof of the filing of all franchise and sales tax forms required by Missouri law;

(d) If not a corporation, the name and address of the managing person or persons responsible for overall operation of the manufacturer;

(2) Files with the commission an initial registration fee of [two] **seven** hundred fifty dollars in the form of a cashier's check or money order made payable to the state of Missouri.

3. The commission shall issue a certificate of registration to a dealer who:

(1) Completes and files with the commission an application for registration which contains the following information:

(a) The name of the dealer;

(b) The business address of the dealer and addresses of each separate facility owned and operated by the dealer from which manufactured homes or modular units are offered for sale if different from the business address of the dealer;

(c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, proof of the filing of all franchise and sales tax forms required by Missouri law;

(d) If not a corporation, the name and address of the managing person or persons responsible for the overall operations of the manufacturer;

(2) Files with the commission an initial registration fee of [fifty] **two hundred** dollars in the form of a cashier's check or money order made payable to the state of Missouri;

(3) Files with the commission proof of compliance with the provisions of section [301.250, RSMo, and section] 301.280, RSMo.

4. The registration of any manufacturer or dealer shall be effective for a period of one year and shall be renewed by the commission upon receipt by it from the registered dealer of a renewal fee of [two] **seven** hundred fifty dollars for manufacturers and [fifty] **two hundred** dollars for dealers and a form provided by the commission upon which shall be placed any changes from the information requested on the initial registration form.

5. The commission may stagger the renewal of certificates of registration to provide for more equal distribution over the twelve months of the number of registration renewals.

700.100. REFUSAL TO RENEW, GROUNDS, NOTIFICATION TO APPLICANT, CONTENTS —

COMPLAINTS MAY BE CONSIDERED. — 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of section 700.090 or this section. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven,

shall constitute grounds for revocation or suspension of his registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

(1) If required, failure to comply with the provisions of [section 301.250, RSMo, or] section 301.280, RSMo;

(2) Failing to be in compliance with the provisions of section 700.090;

(3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;

(4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;

(5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);

(6) As a dealer, failing to arrange for the proper initial setup of any new [or used] manufactured home or modular unit sold from or in the state of Missouri, unless the dealer receives a written waiver of that service from the purchaser or his **or her** authorized agent [and an amount equal to the actual cost of the setup is deducted from the total cost of the manufactured home or modular unit];

(7) Requiring any person to purchase any type of insurance from that manufacturer or dealer as a condition to his being sold any manufactured home or modular unit;

(8) Requiring any person to arrange financing or utilize the services of any particular financing service as a condition to his being sold any manufactured home or modular unit; provided, however, the registered manufacturer or dealer may reserve the right to establish reasonable conditions for the approval of any financing source;

(9) Engaging in conduct in violation of section 700.045;

(10) Failing to comply with the provisions of section 301.210, RSMo;

(11) Failing to pay all necessary fees and assessments authorized pursuant to sections 700.010 to 700.115.

Approved July 6, 2001

SB 319 [CCS HCS SB 319]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Limits use of assessments of students for whom English is a second language.

AN ACT to repeal sections 160.518, 167.640 and 167.645, RSMo 2000, and to enact in lieu thereof four new sections relating to assessment of students, with an emergency clause.

SECTION

A. Enacting clause.

160.518. Statewide assessment system, standards, restriction — exemplary levels, outstanding school waivers — summary waiver of pupil testing requirements — waiver void, when — scores not counted, when.

167.640. Student promotion conditioned on remediation — tutorial activities and other suggested programs.

167.645. Reading assessments required, when — reading improvement plan required, when — additional reading instruction required, when — retention in grade permitted, when.

167.680. After-school retreat reading and assessment program established — grants awarded, procedure — fund created — rulemaking authority.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.518, 167.640 and 167.645, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 160.518, 167.640, 167.645 and 167.680, to read as follows:

160.518. STATEWIDE ASSESSMENT SYSTEM, STANDARDS, RESTRICTION — EXEMPLARY LEVELS, OUTSTANDING SCHOOL WAIVERS — SUMMARY WAIVER OF PUPIL TESTING REQUIREMENTS — WAIVER VOID, WHEN — SCORES NOT COUNTED, WHEN. — 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills and competencies adopted by such board pursuant to subsection 1 of section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate actual academic performance. The assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. The statewide assessment shall measure, where appropriate by grade level, a student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. "Exemplary levels" shall be measured by the assessment system developed pursuant to subsection 1 of this section, or until said assessment is available, by indicators approved for such use by the state board of education. The provisions of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. Any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time

as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

167.640. STUDENT PROMOTION CONDITIONED ON REMEDIATION — TUTORIAL ACTIVITIES AND OTHER SUGGESTED PROGRAMS. — 1. School districts may adopt a policy with regard to student promotion which may require remediation as a condition of promotion to the next grade level for any student identified by the district as failing to master skills and competencies established for that particular grade level by the district board of education. School districts may also require parents or guardians of such students to commit to conduct home-based tutorial activities with their children or, in the case of a student with disabilities eligible for services pursuant to sections 162.670 to 162.1000, RSMo, the individual education plan shall determine the nature of parental involvement consistent with the requirements for a free, appropriate public education.

2. Such remediation shall recognize that different students learn differently and shall employ methods designed to help these students achieve at high levels. Such remediation may include, but shall not necessarily be limited to, a mandatory summer school program focused on the areas of deficiency or other such activities conducted by the school district outside of the regular school day. Decisions concerning the instruction of a child who receives special educational services pursuant to sections 162.670 to 162.1000, RSMo, shall be made in accordance with the child's individualized education plan.

3. School districts providing remediation pursuant to this section outside of the traditional school day may count extra hours of instruction in the calculation of average daily attendance as defined in section 163.011, RSMo.

4. Any student scoring at the lowest level of proficiency, in any subject, at any grade level under the statewide assessment established pursuant to section 160.518, RSMo, shall be required to retake that assessment in the following year. School districts shall evaluate student progress toward proficiency after the initial assessment and report this progress in the aggregate at the building level as a part of the annual report issued to patrons of the district pursuant to section 160.522, RSMo.

5. The state board of education shall establish by administrative rule a method for determining effectiveness of the remediation to students identified pursuant to subsection 4 of this section. Such rule shall make allowances for students who have recently entered the school district. School districts are required to report only the scores of students meeting the district's attendance policy and no report shall disclose student achievement data in such a manner that would personally identify any student.

6. The state board of education, beginning in the 2001-02 school year, shall include the data reported pursuant to subsection 4 of this section as an element in identifying academically deficient schools pursuant to section 160.538, RSMo, and in the school accreditation process pursuant to section 161.092, RSMo.]

167.645. READING ASSESSMENTS REQUIRED, WHEN — READING IMPROVEMENT PLAN REQUIRED, WHEN — ADDITIONAL READING INSTRUCTION REQUIRED, WHEN — RETENTION IN GRADE PERMITTED, WHEN. — [No public school student shall be promoted to a higher grade level unless that student has a reading ability level at or above one grade level below the student's grade level; except that the provisions of this subsection shall not apply to students receiving special education services pursuant to sections 162.670 to 162.999, RSMo.] **1. For purposes of this section, the following terms mean:**

(1) "Reading assessment", a recognized method of judging a student's reading ability, with results expressed as reading at a particular grade level. The term reading assessment shall include, but is not limited to, standard checklists designed for use as a student reads out loud, paper-and-pencil tests promulgated by nationally recognized organizations and other recognized methods of determining a student's reading accuracy, expression, fluency

and comprehension in order to make a determination of the student's grade-level reading ability. Assessments which do not give a grade-level result may be used in combination with other assessments to reach a grade-level determination. Districts are encouraged but not required to select assessment methods identified pursuant to section 167.346. Districts are also encouraged to use multiple methods of assessment;

(2) "Summer school", for reading instruction purposes, a minimum of forty hours of reading instruction and practice. A school district may arrange the hours and days of instruction to coordinate with its regular program of summer school.

2. For purposes of this section, methods of reading assessment shall be determined by each school district. Unless a student has been determined in the current school year to be reading at grade level or above, each school district shall administer a reading assessment or set of assessments to each student within forty-five days of the end of the third-grade year, except that the provisions of this subsection shall not apply to students receiving special education services under an individualized education plan pursuant to sections 162.670 to 162.999, RSMo, to students receiving services pursuant to Section 504 of the Rehabilitation Act of 1973 whose services plan includes an element addressing reading or to students determined to have limited English proficiency or to students who have been determined, prior to the beginning of any school year, to have a cognitive ability insufficient to meet the reading requirement set out in this section, provided that districts shall provide reading improvement plans for students determined to have such insufficient cognitive ability. The assessment required by this subsection shall also be required for students who enter a school district in grades fourth, fifth or sixth unless such student has been determined in the current school year to be reading at grade level or above.

3. Beginning with school year 2002-2003, for each student whose third-grade reading assessment determines that such student is reading below second-grade level, the school district shall design a reading improvement plan for the student's fourth-grade year. Such reading improvement plan shall include, at a minimum, thirty hours of additional reading instruction or practice outside the regular school day during the fourth-grade year. The school district shall determine the method of reading instruction necessary to enforce this subsection. The school district may also require the student to attend summer school for reading instruction as a condition of promotion to fourth grade. The department of elementary and secondary education may, from funds appropriated for the purpose, reimburse school districts for additional instructional personnel costs incurred in the implementation and execution of the thirty hours of additional reading instruction minus the revenue generated by the school district through the foundation formula for the additional reading instruction average daily attendance.

4. Each student for whom a reading improvement plan has been designed pursuant to subsection 3 of this section shall be given another reading assessment, to be administered within forty-five days of the end of such student's fourth-grade year. If such student is determined to be reading below third-grade level, the student shall be required to attend summer school to receive reading instruction. At the end of such summer school instruction, such student shall be given another reading assessment. If such student is determined to be reading below third-grade level, the district shall notify the student's parents or guardians, and the student shall not be promoted to fifth grade. No student shall be denied promotion more than once solely for inability to meet the reading standards set out in this section.

5. The process described in subsections 3 and 4 of this section shall be repeated as necessary through the end of the sixth grade, with the target grade level rising accordingly. Mandatory retention in grade shall not apply to grades subsequent to fourth grade.

6. The mandatory process of additional reading instruction pursuant to this section shall cease at the end of the sixth grade. The permanent record of students who are

determined to be reading below the fifth-grade level at the end of sixth grade shall carry a notation advising that such student has not met minimal reading standards. The notation shall stay on the student's record until such time as the district determines that a student has met minimal reading standards.

7. Each school district shall be required to offer summer school reading instruction to any student with a reading improvement plan. Districts may fulfill the requirement of this section through cooperative arrangements with neighboring districts; provided that such districts shall timely make all payments provided pursuant to such cooperative agreements.

8. A school district may adopt a policy that requires retention in grade of any student who has been determined to require summer school instruction in reading and who does not fulfill the summer school attendance requirement.

9. Nothing in this section shall preclude a school district from retaining any student in grade when a determination is made in accordance with district policy that retention is in the best interests of the student.

10. The state board of education shall not incorporate information about the number of students receiving additional instruction pursuant to this section into any element of any standard of the Missouri school improvement program or its successor accreditation program; provided, however, each district shall make available, upon the request of any parent, patron, or media outlet within the district, the number and percentage of students receiving remediation pursuant to this section. The information shall be presented in a way that does not permit personal identification of any student or educational personnel.

11. Each school district shall make a systematic effort to inform parents of the methods and materials used to teach reading in kindergarten through fourth grade, in terms understandable to a layperson and shall similarly inform parents of students for whom a reading improvement plan is required pursuant to this section.

167.680. AFTER-SCHOOL RETREAT READING AND ASSESSMENT PROGRAM ESTABLISHED — GRANTS AWARDED, PROCEDURE — FUND CREATED — RULEMAKING AUTHORITY. — 1. There is hereby established within the department of elementary and secondary education the "After-School Retreat Reading and Assessment Grant Program". Beginning with the 2002-2003 school year, the program shall award grants to schools on a competitive grant basis. School districts may develop after-school reading and assessment programs and submit proposals to the department, pursuant to criteria established by the department for grant approval and on forms promulgated by the department for grant applications. Copies of the criteria established pursuant to this section shall be provided by the department to all school districts in this state. In awarding such grants, the department shall grant preference to school districts with a higher percentage of at-risk students, as the department may determine. In addition, the criteria for grant approval by the department may include, but shall not be limited to:

(1) The development of programs which are educational in nature, with emphasis in reading and student assessment thereof as opposed to day-care oriented programs; or

(2) Other criteria as the department may deem appropriate.

2. Subject to appropriation, beginning with the 2002-2003 school year, the department shall award grants to school districts for the development and implementation of after-school retreat programs consistent with this section. In the event that the appropriations or other moneys available for such grants are less than the amount necessary to fully fund all approved grants for the 2002-2003 school year or any subsequent school year, the moneys shall be distributed to approved schools on a pro rata basis.

3. There is hereby created in the state treasury the "After-School Retreat Reading and Assessment Grant Program Fund". The fund shall be administered by the

department. The fund shall consist of moneys appropriated annually by the general assembly from general revenue to such fund, any moneys paid into the state treasury and required by law to be credited to such fund and any gifts, bequests or donations to such fund. The fund shall be kept separate and apart from all other moneys in the state treasury and shall be paid out by the state treasurer pursuant to chapter 33, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund at the end of the biennium shall not be transferred to the credit of the general revenue fund. All interest and moneys earned on the fund shall be credited to the fund.

4. No rule or portion of a rule promulgated pursuant to this section shall take effect unless such rule has been promulgated pursuant to chapter 536, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to preserve the reading ability of the elementary school students of Missouri, the repeal and reenactment of sections 160.518, 167.640 and 167.645 and the enactment of section 167.680 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 160.518, 167.640 and 167.645 and the enactment of section 167.680 of this act shall be in full force and effect on July 1, 2001, or upon its passage and approval, whichever later occurs.

Approved June 29, 2001

SB 321 [HCS SB 321]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows sheltered workshops to file data with DESE via electronic means.

AN ACT to repeal section 178.930, RSMo 2000, relating to sheltered workshops, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

178.930. State aid, computation of — records, kept on premises — sheltered workshop per diem revolving fund created.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 178.930, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 178.930, to read as follows:

178.930. STATE AID, COMPUTATION OF — RECORDS, KEPT ON PREMISES — SHELTERED WORKSHOP PER DIEM REVOLVING FUND CREATED. — 1. [Until June 30, 1998, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to eleven dollars multiplied by the number of six-hour or longer days worked by handicapped workers during the preceding calendar month. For each handicapped worker employed by a sheltered workshop for less than a six-hour day, the workshop shall receive a percentage of the eleven dollars based on the percentage of the six-hour day worked by the handicapped employee.

2. Beginning July 1, 1998, until June 30, 1999, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to twelve dollars multiplied by the number of six-hour or longer days worked by handicapped workers during the preceding calendar month. For each handicapped worker employed by a sheltered workshop for less than a six-hour day, the workshop shall receive a percentage of the twelve dollars based on the percentage of the six-hour day worked by the handicapped employee.

3.] Beginning July 1, 1999, and thereafter, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to thirteen dollars multiplied by the number of six-hour or longer days worked by handicapped workers during the preceding calendar month. For each handicapped worker employed by a sheltered workshop for less than a six-hour day, the workshop shall receive a percentage of the thirteen dollars based on the percentage of the six-hour day worked by the handicapped employee.

[4.] **2.** The department shall accept, as prima facie proof of payment due to a sheltered workshop, **information as designated by the department, either in paper or electronic format.** A statement signed by the president [and], secretary, **and manager** of the sheltered workshop, setting forth the dates worked and the number of hours worked each day by each handicapped person employed by that sheltered workshop during the preceding calendar month, together with any other information required by the rules or regulations of the department, **shall be maintained at the workshop location.**

3. There is hereby created in the state treasury the "Sheltered Workshop Per Diem Revolving Fund" which shall be administered by the commissioner of the department of elementary and secondary education. All moneys appropriated pursuant to subsection 1 of this section shall be deposited in the fund and expended as described in subsection 1 of this section.

4. The balance of the sheltered workshop per diem revolving fund shall not exceed five hundred thousand dollars at the end of each fiscal year and shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund. Any unexpended balance in the sheltered workshop per diem revolving fund at the end of each fiscal year exceeding five hundred thousand dollars shall be deposited in the general revenue fund.

Approved July 12, 2001

SB 323 [CCS HS SS SCS SB 323 & 230]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows creation of Tourism Community Enhancement Districts by certain political subdivisions.

AN ACT to repeal sections 67.1003, 67.1300, 67.1360, 67.1775, 94.812 and 210.861, RSMo 2000, and to enact in lieu thereof thirty-three new sections relating to certain local taxes.

SECTION

A. Enacting clause.

67.571. Museums and festivals, sales tax authorized (Buchanan County).

67.572. Repeal of sales tax, procedure.

- 67.573. Sales tax to be an additional tax to taxes in chapter 144 — computation of tax.
- 67.574. Director of revenue to be responsible for administration and operation of the tax.
- 67.576. Collection of the tax requirements — applicable penalties.
- 67.577. Delinquency in payment, limitation for bringing suit.
- 67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.
- 67.1005. Transient guest tax on hotels and motels in cities and counties — issue submitted to voters, ballot language.
- 67.1300. Sales tax authorized certain counties — rate — ballot form — expenditures — local economic development sales tax trust fund created — deposit, records, distribution refunds — abolishing tax — sections 32.085 and 32.087 applicable — economic development, definition.
- 67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
- 67.1775. Authorizes local sales tax in certain counties and cities to provide community services for children — establishes fund.
- 67.1922. Water quality, infrastructure and tourism, sales tax authorized for certain counties — ballot language.
- 67.1925. Special trust fund created.
- 67.1928. Authorized appropriations from special trust fund.
- 67.1931. Indebtedness authorized to accomplish purposes of certain taxes.
- 67.1934. Repeal of tax, submitted to voters, ballot language.
- 67.1937. Safekeeping of county permanent records — accounting records and annual audit.
- 67.1940. Donation of property to county.
- 67.1950. Definitions.
- 67.1953. Tourism community enhancement district authorized for certain counties — boundaries — procedure.
- 67.1956. Board of directors, members, terms, duties.
- 67.1959. Sales tax imposed, when — submitted to voters, ballot language.
- 67.1962. Special trust fund created.
- 67.1965. County collector to collect tax at discretion of the board — rules.
- 67.1968. Expenditure of sales tax revenue, conditions.
- 67.1971. Reduction of liability for entities remitting the sales tax.
- 67.1974. Expansion of district boundaries, procedure.
- 67.1977. Dissolution and repeal of the tax, procedure.
- 67.1978. Annual audit required.
- 67.1979. Removal of board members.
- 94.812. Retailers liable for tax, collection and return of taxes (Branson).
- 210.861. Board of directors, term, expenses, organization — powers — funds, expenditure, purpose, restrictions.
 - 1. Additional fee for short-term rentals of motor vehicles, check-off box provided (Platte County).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1003, 67.1300, 67.1360, 67.1775, 94.812 and 210.861, RSMo 2000, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 67.571, 67.572, 67.573, 67.574, 67.576, 67.577, 67.1003, 67.1005, 67.1300, 67.1360, 67.1775, 67.1922, 67.1925, 67.1928, 67.1931, 67.1934, 67.1937, 67.1940, 67.1950, 67.1953, 67.1956, 67.1959, 67.1962, 67.1965, 67.1968, 67.1971, 67.1974, 67.1977, 67.1978, 67.1979, 94.812, 210.861 and 1, to read as follows:

67.571. MUSEUMS AND FESTIVALS, SALES TAX AUTHORIZED (BUCHANAN COUNTY). —

1. The governing body of any county of the first classification with a population of more than eighty-two thousand inhabitants and less than ninety thousand inhabitants may, in addition to any tourism sales tax imposed pursuant to sections 67.671 to 67.685, by a majority vote, impose a sales tax for the funding of museums and festivals. For purposes of this section, the term "funding of museums and festivals" shall mean:

(1) Funding of museums operating in the county, which are registered with the United States Internal Revenue Services as a 501(C)(3) corporation and which are considered by the board to be tourism attractions; and

(2) Funding of organizations that are registered as 501(C)(3) corporations which promote cultural heritage tourism including festivals and the arts.

2. Any question submitted to the voters of such county to establish a sales tax pursuant to this section, shall be submitted in substantially the following form:

"Shall the county of (insert the name of the county) impose a sales tax of (insert rate of percent) percent to be used to fund (museums, cultural heritage, festivals) in certain areas of the county?

☐ YES ☐ NO

3. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, and the tax takes effect pursuant to this section, the museums and festivals board appointed pursuant to subsection 5 of this section shall determine in what manner the tax revenue moneys will be expended, and disbursements of these moneys shall be made strictly in accordance with directions of the board which are consistent with the provisions of sections 67.571 to 67.577. Expenditures of these tax moneys may be made for the employment of personnel selected by the board to assist in carrying out the duties of the board, and the board is expressly authorized to employ such personnel. Expenditures of these tax moneys may be made directly to corporations pursuant to subsection 1 of this section. No such tax revenue moneys shall be disbursed to or on behalf of any corporation, organization or entity that is not duly registered with the Internal Revenue Service as a 501(C)(3) organization.

4. Any sales tax imposed pursuant to this section shall be imposed at a rate not to exceed two tenths of one percent on receipts from the sale of certain tangible personal property or taxable services within the county pursuant to sections 67.571 to 67.577.

5. The governing body of any county which imposes a sales tax pursuant to this section may establish a museums and festivals board for the purpose of expending funds collected from any sales tax submitted and approved by the county's voters pursuant to this section. The board shall be comprised of six members who are appointed by the governing body of the county from a list of candidates supplied by the chair of each of the two major political parties of the county. The board shall be comprised of three members from each of the two political parties. Members shall serve for three-year terms, but of the members first appointed, one shall be appointed for a term of one year, two shall be appointed for a term of two years, and two shall be appointed for a term of three years. Each member shall be a resident of the county from which he or she is appointed. The members of the board shall not receive compensation for service on the board, but shall be reimbursed from the tax revenue money for any reasonable and necessary expenses incurred in service on the board.

6. In the area of each county in which a sales tax has been imposed in the manner provided by sections 67.571 to 67.577, every retailer within such area shall add the tax imposed by the provisions of sections 67.571 to 67.577 to his sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

7. In counties imposing a tax under the provisions of sections 67.571 to 67.577, in order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body may authorize the use of a bracket system similar to that authorized by the provisions of section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions.

67.572. REPEAL OF SALES TAX, PROCEDURE. — The governing body of any county which has adopted a sales tax pursuant to sections 67.571 to 67.577 may submit the question of repeal of the tax to the voters at any primary or general election. The ballot of submission shall be in substantially the following form:

Shall the county of (insert name of county) repeal the museum and festivals sales tax of (insert rate of percent) percent in effect in certain areas of the county?

☐ YES ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved.

67.573. SALES TAX TO BE AN ADDITIONAL TAX TO TAXES IN CHAPTER 144 — COMPUTATION OF TAX. — The order imposing the sales tax pursuant to the provisions of sections 67.571 to 67.577 shall impose upon all sellers within the area wherein the tax is to be paid an additional tax on all goods subject to tax included in chapter 144, RSMo. The amount reported and returned by the seller shall be computed on the basis of the tax imposed by the order as authorized by sections 67.571 to 67.577. The seller shall report and return the amount so computed to the director of revenue.

67.574. DIRECTOR OF REVENUE TO BE RESPONSIBLE FOR ADMINISTRATION AND OPERATION OF THE TAX. — On or after the effective date of any tax imposed throughout a county pursuant to the provisions of sections 67.571 to 67.577, the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax so imposed, the provisions of sections 67.671 to 67.685 to the contrary notwithstanding. An amount not to exceed one percent shall be retained by the director of revenue for deposit in the general revenue fund to offset the costs of collection.

67.576. COLLECTION OF THE TAX REQUIREMENTS — APPLICABLE PENALTIES. — 1. The following provisions shall govern the collection of the tax imposed by the provisions of sections 67.571 to 67.577:

(1) All applicable provisions contained in sections 144.010 to 144.510, RSMo, governing the state sales tax and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by the provisions of sections 67.571 to 67.577;

(2) All exemptions granted to agencies of government, organizations, and persons under the provisions of sections 144.010 to 144.510, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by sections 67.571 to 67.577.

2. The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.510, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of sections 67.571 to 67.577, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax imposed by sections 67.571 to 67.577.

3. All discounts allowed the retailer pursuant to the provisions of the state sales tax law for the collection of and for payment of taxes pursuant to that act are hereby allowed and made applicable to any taxes collected pursuant to the provisions of sections 67.571 to 67.577.

4. The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.510, RSMo, for a violation of those acts are hereby made applicable to violations of the provisions of sections 67.571 to 67.577.

5. For the purposes of the sales tax imposed by an order pursuant to sections 67.571 to 67.577, all retail sales shall be deemed to be consummated at the place of business of the retailer.

67.577. DELINQUENCY IN PAYMENT, LIMITATION FOR BRINGING SUIT. — In any county or area of a county where a sales tax has been imposed pursuant to sections 67.571 to 67.577, if any person is delinquent in the payment of the amount required to be paid by him pursuant to the provisions of sections 67.571 to 67.577 or in the event a determination has been made against him for taxes and penalty pursuant to the provisions of sections 67.571 to 67.577, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.510, RSMo.

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county or a county of the third classification with a population of (1) more than seven thousand but less than seven thousand four hundred inhabitants; (2) or a third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand; (3) or a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand or any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, **except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one half of one percent per occupied room per night.**

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

☐ YES ☐ NO

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1005. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN CITIES AND COUNTIES — ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or

county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism and for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

2. The tax authorized in this section shall not be imposed in any city or county where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof is imposed pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms and located in a county of the first class where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed may impose the tax authorized in this section of not more than one-half percent per occupied room per night.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent?

☐ YES ☐ NO

4. As used in this section, "transient guests" shall mean a person or persons who occupy room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1300. SALES TAX AUTHORIZED CERTAIN COUNTIES — RATE — BALLOT FORM — EXPENDITURES — LOCAL ECONOMIC DEVELOPMENT SALES TAX TRUST FUND CREATED — DEPOSIT, RECORDS, DISTRIBUTION REFUNDS — ABOLISHING TAX — SECTIONS 32.085 AND 32.087 APPLICABLE — ECONOMIC DEVELOPMENT, DEFINITION. — 1. The governing body of any of the contiguous counties of the third classification without a township form of government enumerated in subdivisions (1) to (5) of this subsection or in any county of the fourth classification acting as a county of the second classification, having a population of at least forty thousand but less than forty-five thousand with a state university, and adjoining a county of the first classification with part of a city with a population of three hundred fifty thousand or more inhabitants **or a county of the third classification with a township form of government and with a population of at least eight thousand but less than eight thousand four hundred inhabitants** or a county of the third classification with more than fifteen townships having a population of at least twenty-one thousand inhabitants or a county of the third classification without a township form of government and with a population of at least seven thousand four hundred but less than eight thousand inhabitants or any county of the third classification with a population greater than three thousand but less than four thousand or any county of the third classification with a population greater than six thousand one hundred but less than six thousand four hundred or any county of the third classification with a population greater than six thousand eight hundred but less than seven thousand or any county of the third

classification with a population greater than seven thousand eight hundred but less than seven thousand nine hundred or any county of the third classification with a population greater than eight thousand four hundred sixty but less than eight thousand five hundred or any county of the third classification with a population greater than nine thousand but less than nine thousand two hundred or any county of the third classification with a population greater than ten thousand five hundred but less than ten thousand six hundred or any county of the third classification with a population greater than twenty-three thousand five hundred but less than twenty-three thousand seven hundred or a county of the third classification with a population greater than thirty-three thousand but less than thirty-four thousand or a county of the third classification with a population greater than twenty thousand eight hundred but less than twenty-one thousand or a county of the third classification with a population greater than fourteen thousand one hundred but less than fourteen thousand five hundred or a county of the third classification with a population greater than twenty thousand eight hundred fifty but less than twenty-two thousand or a county of the third classification with a population greater than thirty-nine thousand but less than forty thousand or a county of the third classification with a township form of organization and a population greater than twenty-eight thousand but less than twenty-nine thousand or a county of the third classification with a population greater than fifteen thousand but less than fifteen thousand five hundred or a county of the third classification with a population greater than eighteen thousand but less than nineteen thousand seventy or a county of the third classification with a population greater than thirteen thousand nine hundred but less than fourteen thousand four hundred or a county of the third classification with a population greater than twenty-seven thousand but less than twenty-seven thousand five hundred or a county of the first classification without a charter form of government and a population of at least eighty thousand but not greater than eighty-three thousand or a county of the third classification with a population greater than fifteen thousand but less than fifteen thousand nine hundred without a township form of government which does not adjoin any county of the first, second or fourth classification or a county of the third classification with a population greater than twenty-three thousand but less than twenty-five thousand without a township form of government which does not adjoin any county of the second or fourth classification and does adjoin a county of the first classification with a population greater than one hundred twenty thousand but less than one hundred fifty thousand or in any county of the fourth classification acting as a county of the second classification, having a population of at least forty-eight thousand or any governing body of a municipality located in any of such counties may impose, by ordinance or order, a sales tax on all retail sales made in such county or municipality which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo:

- (1) A county with a population of at least four thousand two hundred inhabitants but not more than four thousand five hundred inhabitants;
- (2) A county with a population of at least four thousand seven hundred inhabitants but not more than four thousand nine hundred inhabitants;
- (3) A county with a population of at least seven thousand three hundred inhabitants but not more than seven thousand six hundred inhabitants;
- (4) A county with a population of at least ten thousand one hundred inhabitants but not more than ten thousand three hundred inhabitants; and
- (5) A county with a population of at least four thousand three hundred inhabitants but not more than four thousand five hundred inhabitants.

2. The maximum rate for a sales tax pursuant to this section shall be one percent for municipalities and one-half of one percent for counties.

3. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county or municipality submits to the voters of the county or municipality, at a regularly scheduled county, municipal or state general or primary election, a proposal to authorize the governing body of the county or

municipality to impose a tax. Any sales tax imposed pursuant to this section shall not be authorized for a period of more than five years.

4. Such proposal shall be submitted in substantially the following form:

Shall the (city, town, village or county) of impose a sales tax of (insert amount) for the purpose of economic development in the (city, town, village or county)?

☐ YES ☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall not impose the sales tax authorized in this section until the governing body of the county or municipality resubmits another proposal to authorize the governing body of the county or municipality to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon; however no such proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last such proposal.

5. All revenue received by a county or municipality from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for economic development purposes within such county or municipality for so long as the tax shall remain in effect.

6. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for economic development purposes within the county or municipality. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county or municipal funds.

7. All sales taxes collected by the director of revenue pursuant to this section on behalf of any county or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Economic Development Sales Tax Trust Fund".

8. The moneys in the local economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and which was collected in each county or municipality imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the county or municipality and the public.

9. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county or municipality which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate municipal officer in the case of a municipal tax, and all expenditures of funds arising from the local economic development sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county or municipality. Expenditures may be made from the fund for any economic development purposes authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

10. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties and municipalities.

11. If any county or municipality abolishes the tax, the county or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of

such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

12. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

13. For purposes of this section, the term "economic development" is limited to the following:

- (1) Operations of economic development or community development offices, including the salaries of employees;
- (2) Provision of training for job creation or retention;
- (3) Provision of infrastructure and sites for industrial development or for public infrastructure projects; and
- (4) Refurbishing of existing structures and property relating to community development.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

- (1) A city with a population of more than seven thousand and less than seven thousand five hundred [and];
- (2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003[, or];
- (3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants[, or];
- (4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants[, or];
- (5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants[, or];
- (6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants[, or];
- (7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants[, or];
- (8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand[, or];
- (9) Any county of the second classification without a township form of government and a population of less than thirty thousand [or];
- (10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand[, or];
- (11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand [and];
- (12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand[, or];

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand[, or];

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants; or

(18) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants; or

(19) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.1775. AUTHORIZES LOCAL SALES TAX IN CERTAIN COUNTIES AND CITIES TO PROVIDE COMMUNITY SERVICES FOR CHILDREN — ESTABLISHES FUND. — 1. The governing body of **a city not within a county, or** any county of the first classification with a charter form of government [and] **with** a population [of two hundred thousand but less than three hundred thousand] **not less than nine hundred thousand inhabitants, or any county of the first classification with a charter form of government with a population not less than two hundred thousand inhabitants and not more than six hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than one hundred seventy thousand and not more than two hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than eighty thousand and not more than eighty-three thousand inhabitants, or any third classification county with a population not less than twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the third classification with a population not less than nineteen thousand five hundred and not more than twenty thousand inhabitants** may, after voter approval pursuant to this section, levy a sales tax not to exceed one-quarter of

a cent in the county for the purpose of providing **services described in section 210.861, RSMo, including** counseling, family support, and temporary residential services to persons [eighteen] **nineteen** years of age or less. The question shall be submitted to the qualified voters of the county at a county or state general, primary or special election upon the motion of the governing body of the county **or** upon the petition of eight percent of the qualified voters of the county determined on the basis of the number of votes cast for governor in such county at the last gubernatorial election held prior to the filing of the petition. The election officials of the county shall give legal notice as provided in chapter 115, RSMo. The question shall be submitted in substantially the following form:

Shall County be authorized to levy a sales tax of (**not to exceed** one-quarter of a cent) in the county for the purpose of establishing a community children's services fund for the purpose of providing services to protect the well-being and safety of children and youth [eighteen] **nineteen** years of age or less and to strengthen families?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall be levied and collected as otherwise provided by law. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not be levied unless and until the question is again submitted to the qualified voters of the county and a majority of such voters are in favor of such a tax, and not otherwise.

2. All revenues generated by the tax prescribed in this section shall be deposited in the county treasury to the credit of a special "Community Children's Services Fund". Such fund shall be administered by a board of directors, established pursuant to section 210.861, RSMo.

67.1922. WATER QUALITY, INFRASTRUCTURE AND TOURISM, SALES TAX AUTHORIZED FOR CERTAIN COUNTIES — BALLOT LANGUAGE. — 1. The governing body of any county containing any part of a Corps of Engineers lake with a shoreline of at least seven hundred miles and not exceeding a shoreline of nine hundred miles or the governing body of any county which borders on or which contains part of a lake with not less than one hundred miles of shoreline may impose by order a sales tax, not to exceed one and one-half percent, on all retail sales made in such county which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of promoting water quality, infrastructure and tourism through programs designed to affect the economic development of the county. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; except that no order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a municipal or state primary, general or special election, a proposal to authorize the governing body of the county to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the county of (county's name) impose a county-wide sales tax of (insert percent) for the purpose of creating and implementing water quality, infrastructure and tourism programs affecting economic development in the county as provided by law?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the governing body

of the county shall have no power to impose the sales tax authorized pursuant to this section unless and until the governing body shall again have submitted another proposal to authorize the governing body to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the county voting on such proposal.

67.1925. SPECIAL TRUST FUND CREATED. — 1. All revenue received by a county from the tax authorized pursuant to the provisions of section 67.1922 shall be deposited in a special trust fund, and be used solely for the purposes specified in the proposal submitted pursuant to subsection 1 of section 67.1922 for so long as the tax shall remain in effect.

2. Once the tax authorized pursuant to the provisions of section 67.1922 is abolished or terminated by any means, all funds remaining in the special trust fund shall be used solely for activities initiated with revenues raised by the tax authorized. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

3. All sales taxes collected by the director of revenue pursuant to section 67.1922 less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Economic Development Sales Tax Trust Fund". The moneys in the economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each county imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county which levied the tax; such funds shall be deposited with the county treasurer of each such county, and all expenditures of funds arising from the local economic development trust fund shall be by an appropriation act to be enacted by the governing body of such county. Expenditures may be made from the fund for any purposes authorized pursuant to subsection 1 of section 67.1922, provided water quality programs receive one third, infrastructure programs receive one third and tourism programs receive one third; and provided no more than five percent of the total fund shall be used annually for administration costs.

4. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credit any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to section 67.1922.

67.1928. AUTHORIZED APPROPRIATIONS FROM SPECIAL TRUST FUND. — For purposes of sections 67.1922 to 67.1940, appropriations from the economic development sales tax trust fund may be used for the following:

- (1) Comprehensive programs encouraging the prevention, control and abatement of water pollution within the county;
- (2) Cooperating with agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 644.006 to 644.141, RSMo;
- (3) Encouraging, participating in or conducting studies, investigations and research relating to water pollution causes and prevention pursuant to sections 644.006 to 644.141, RSMo;
- (4) Collecting and disseminating information relating to water pollution and the prevention, control and abatement, pursuant to sections 644.006 to 644.141, RSMo;
- (5) Developing, implementing and carrying out comprehensive programs for encouragement, promotion and necessary construction for the orderly development of water and sewage systems and infrastructure, including roads interconnecting to state highways within the county;
- (6) Formulating programs for the promotion of fishing and hunting areas, historical sites, vacation regions and areas of historic or scenic interest;
- (7) Cooperating with civic groups and local, state and federal departments and agencies, and departments and agencies of other states in encouraging educational tourism and developing programs therefor;
- (8) Publishing tourist promotional material such as brochures and booklets; and
- (9) Promoting tourism in the county by any means including but not limited to articles and advertisements in magazines, newspapers, radio, television, internet and travel publications and by establishing promotional exhibitions at travel shows and similar exhibitions.

67.1931. INDEBTEDNESS AUTHORIZED TO ACCOMPLISH PURPOSES OF CERTAIN TAXES. — 1. The governing body of the county may borrow money and issue notes, certificates or other evidences of indebtedness to accomplish the purposes pursuant to sections 67.1922 to 67.1940.

2. Nothing in sections 67.1922 to 67.1940 shall be construed to authorize the county to establish or enforce any regulation or rule to promote any program which is in conflict with any federal or state law or regulation applicable to the same subject matter.

3. Nothing in sections 67.1922 to 67.1940 shall be construed to require the county to enforce Missouri's environmental laws when the obligation and authority for enforcement rests with the department of natural resources.

67.1934. REPEAL OF TAX, SUBMITTED TO VOTERS, BALLOT LANGUAGE. — The governing body of the county, when presented with a petition, signed by at least twenty percent of the registered voters in the county that voted in the last gubernatorial election, calling for an election to repeal the tax shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

Shall County, Missouri, repeal the percent economic development sales tax for promoting water quality, infrastructure and tourism now in effect in the county?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the county's indebtedness incurred pursuant to sections 67.1922 to 67.1940, whichever occurs later.

67.1937. SAFEKEEPING OF COUNTY PERMANENT RECORDS — ACCOUNTING RECORDS AND ANNUAL AUDIT. — The governing body of the county shall provide for the proper and safe keeping of its permanent records. It shall keep a true and accurate account of its receipts and an annual audit shall be made of its books, records and accounts.

67.1940. DONATION OF PROPERTY TO COUNTY. — 1. Any person desiring to donate property for the benefit of the county may vest title to the property so donated in the county, and the county shall hold and control the property so received and accepted according to the terms of the deed, gift, devise or bequest of the property, and shall be a trustee of the property and shall take title to all property it may acquire in the name of the county and shall control the property, for purposes pursuant to sections 67.1922 to 67.1940.

2. The governing body of the county may accept gifts, contributions, donations, loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions, which funds shall not be expended for other than the purposes pursuant to sections 67.1922 to 67.1940.

67.1950. DEFINITIONS. — As used in sections 67.1950 to 67.1977, the following terms shall mean:

(1) "Board of directors" or "board", tourism community enhancement district board of directors established pursuant to section 67.1956;

(2) "Convention and visitors bureau", a not-for-profit corporation established and operated for the sole purpose of promoting convention and other tourism activities in the county, city, town or village;

(3) "Destination marketing organization", a not-for-profit corporation established for the purpose of tourism marketing and designated by the division of tourism as such;

(4) "District", a tourism community enhancement district;

(5) "Funeral services", all labor and services used in preparation for, in the course of or completion of a funeral, including the sale of caskets and vaults.

67.1953. TOURISM COMMUNITY ENHANCEMENT DISTRICT AUTHORIZED FOR CERTAIN COUNTIES — BOUNDARIES — PROCEDURE. — 1. The governing body of any county containing any part of a Corps of Engineers lake with a shoreline of at least seven hundred miles and not exceeding a shoreline of nine hundred miles or any city, town or village located in a county containing any part of a Corps of Engineers lake with a shoreline of at least seven hundred miles and not exceeding a shoreline of nine hundred miles, may create a tourism community enhancement district in the manner provided in this section and, upon establishment, each such district shall be a body corporate and politic of the state. If such district is established, it shall consist of the boundaries delineated in the petition filed with the governing body of a county, city, town or village pursuant to this section, and such boundaries may extend beyond the boundaries of the county, city, town or village creating such district, but shall not overlap with the boundaries of any previously incorporated tourism community enhancement district.

2. The governing body of a county, city, town or village may create a district when a proper petition has been signed by at least two percent of the registered voters of a county, city, town or village within such proposed district. The petition, in order to

become effective, shall be filed with the clerk of the county, city, town or village that includes a majority of the area within the proposed district. A proper petition for the creation of a district shall set forth the boundaries of the proposed district and the maximum proposed sales tax rate up to one percent.

3. The boundaries of the proposed district shall be described by metes and bounds, streets or other sufficiently specific description.

4. The plans and specifications for the district shall be filed with the clerk, as applicable, and shall be open for public inspection. Such clerk shall thereupon, at the direction of the governing body, publish notice that the governing body will conduct a hearing to consider the proposed district. Such notice shall be published in a newspaper of general circulation at least twice not more than thirty days and not less than seven days before the hearing and shall state the name for the district, the date, time and place of such hearing, the boundaries of the district, and that written or oral objections will be considered at the hearing.

5. If the governing body, following the hearing, decides to establish the proposed district, it shall adopt an order or ordinance to that effect. The order or ordinance shall contain the following:

- (1) The name of the district;
- (2) A statement that a tourism community enhancement district has been established; and
- (3) The creation of a board of directors and enumeration of its duties and responsibilities, as provided by section 67.1956.

67.1956. BOARD OF DIRECTORS, MEMBERS, TERMS, DUTIES. — 1. In each tourism community enhancement district established pursuant to section 67.1953, there shall be a board of directors, to initially consist of not less than five members. One member shall be selected by the governing body of the city, town or village, with the largest population, at the inception of the district, within the district. One member shall be selected by the governing body of the city, town or village, with the second largest population, at the inception of the district, within the district, if such a city, town or village exists in the district. If no such city, town or village exists in the district then one member shall be selected by the board of directors of the district from the unincorporated area of such district. Two members shall be selected by the largest convention and visitor's bureau or similar organization, at the inception of the district, within the district. One member shall be selected by the destination marketing organization of the second largest county, city, town or village, at the inception of the district, within the district. Of the members first selected, the two members from the city, town or village shall be selected for a term of three years, the two members from the convention and visitor's bureau shall be selected for a term of two years, and the member from the destination marketing organization of the second largest city shall be selected for a term of one year. Thereafter, each member selected shall serve a three-year term. Every member shall be a resident of the district. All members shall serve without compensation. Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected, with the new person serving the remainder of the term of the person who vacated the position. The board shall elect its own treasurer, secretary and such other officers as it deems necessary and expedient, and it may make such rules, regulations, and bylaws to carry out its duties pursuant to sections 67.1950 to 67.1977.

2. Any time a district is expanded by either an unincorporated or incorporated area, the board shall be expanded by two members. One member shall be appointed by the governing body of the incorporated area added to the district or by the board of directors of the district for the unincorporated area added to the district and one member shall be appointed by the governing body of the city, town or village with the largest population

at the inception of the district for the first expansion and every odd numbered expansion thereafter, or by the convention and visitor's bureau or similar entity of the largest city, town or village, at the inception of the district, for the second expansion and every even numbered expansion thereafter.

3. The board, on behalf of the district, may:

(1) Cooperate with public agencies and with any industry or business located within the district in the implementation of any project;

(2) Enter into any agreement with any public agency, person, firm, or corporation to implement any of the provisions of sections 67.1950 to 67.1977;

(3) Contract and be contracted with, and sue and be sued; and

(4) Accept gifts, grants, loans, or contributions from the United States of America, the state, any political subdivision, foundation, other public or private agency, individual, partnership or corporation on behalf of the tourism enhancement district community.

67.1959. SALES TAX IMPOSED, WHEN — SUBMITTED TO VOTERS, BALLOT LANGUAGE.

— 1. The board, by a majority vote, may submit to the residents of such district a tax of not more than one percent on all retail sales, except sales of new or used motor vehicles, trailers, boats, or other outboard motor and sales of funeral services, made within the district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon the written request of the board to the election authority of the county in which a majority of the area of the district is situated, such election authority shall submit a proposition to the residents of such district at a municipal or statewide primary or general election, or at a special election called for that purpose. Such election authority shall give legal notice as provided in chapter 115, RSMo.

2. Such proposition shall be submitted to the voters of the district in substantially the following form at such election:

Shall the Tourism Community Enhancement District impose a sales tax of
(insert amount) for the purpose of promoting tourism and community enhancements in
the (name of county, city, town or village that includes a majority of the area within the
proposed district) Tourism Community Enhancement District?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the proposed district voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the board shall have no power to impose the sales tax authorized pursuant to this section unless and until the board shall again have submitted another proposal to authorize the board to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district.

67.1962. SPECIAL TRUST FUND CREATED. — 1. All revenue received by a district from the tax authorized pursuant to the provisions of section 67.1959 shall be deposited in a special trust fund, and be used solely for the purposes specified in the proposal submitted pursuant to subsection 1 of section 67.1959 for so long as the tax shall remain in effect.

2. All sales taxes collected by the director of revenue pursuant to section 67.1959 less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Tourism Community Enhancement District Sales Tax Trust Fund". The moneys in the tourism community enhancement district sales tax trust fund shall not be deemed to be

state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each district imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county, city, town or village and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the board which levied the tax; such funds shall be deposited with the board treasurer of each such district.

3. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credit any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. If any district abolishes the tax, the district shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

4. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to section 67.1959.

67.1965. COUNTY COLLECTOR TO COLLECT TAX AT DISCRETION OF THE BOARD — RULES. — Notwithstanding the provisions of section 67.1962, if the board chooses, on and after the effective date of any tax authorized pursuant to section 67.1959, the board may enter into an agreement with either the county collector of the county where the majority of the area of the district is situated for the purpose of collecting the tax or the city collector of the largest city existing at the inception of the district. The tax to be collected by the county or city collector shall be remitted to the board of the district not later than thirty days following the end of any calendar quarter. The governing body of the county or city shall adopt rules and regulations for the collection and administration of the tax. The county or city collector shall retain on behalf of the county or city one percent for cost of collection.

67.1968. EXPENDITURE OF SALES TAX REVENUE, CONDITIONS. — Expenditures may be made from the tourism community enhancement district sales tax trust fund or moneys collected pursuant to section 67.1965 for any purposes authorized pursuant to subsection 1 of section 67.1959, provided as follows:

(1) Ten percent of the revenues shall be used for education purposes. The board shall transmit those revenues to the school district or districts within the district, on a basis of revenue collected within each school district. These revenues shall not be used in any manner with respect to the calculation of the state school aid pursuant to chapter 163, RSMo;

(2) Ten percent of the revenues collected from the tax authorized by this section shall be used by the board for senior citizen or youth or community enhancement purposes within the district. The board shall distribute these revenues to the cities, towns and villages based upon the amount of sales tax collected within each city, town or village and the portion of the revenues not attributable to any city, town or village shall be distributed at the discretion of the board;

(3) Seventy-five percent of the revenues shall be used by the board for marketing, advertising and promotion of tourism. The district shall enter into an agreement with a

not-for-profit organization providing local support services, including but not limited to visitor's centers, to conduct and administer public relations, sales and marketing of tourism on behalf of the district to enhance the economic health of the district. Such marketing, advertising and promotional activities shall be developed into a comprehensive marketing plan, for the benefit of the district;

(4) Two percent of the revenues shall be distributed among each destination marketing organization located within each school district or districts within the district based upon the amount of sales tax collected within each school district;

(5) Two percent of the revenues shall be transmitted to the not-for-profit organization conducting and administering the marketing plan within the district for purposes of administering the marketing plan.

67.1971. REDUCTION OF LIABILITY FOR ENTITIES REMITTING THE SALES TAX. — All entities remitting the sales tax authorized pursuant to section 67.1959 shall have their liability reduced by an amount equal to twenty-five percent of any taxes collected and remitted pursuant to sections 94.802 to 94.805, RSMo.

67.1974. EXPANSION OF DISTRICT BOUNDARIES, PROCEDURE. — The boundaries of the district may be expanded by the addition of either an adjacent unincorporated or incorporated area. Upon presentation of a petition to the board signed by two percent of registered voters residing in either the unincorporated or incorporated area adjacent to the district. If the board determines that expansion is in the best interest of the current district, then the board shall give written notice to the election authority in the county in which the unincorporated or incorporated area is located to call an election. The election authority shall submit a proposition to the residents of the unincorporated or incorporated area at a municipal or state primary or general election, or at a special election called for that purpose. Such election authority shall give notice as provided in chapter 115, RSMo. The proposition shall be submitted to voters in the unincorporated or incorporated area in substantially the following manner:

Shall the (unincorporated or incorporated area) of (county, city, town or village) be included in the (name of district) Tourism Community Enhancement District and any sales tax imposed by the (name of district) Tourism Community Enhancement District also be imposed in the (unincorporated or incorporated area) of (county, city, town or village)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the unincorporated or incorporated area voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the board shall have no power to impose the sales tax authorized pursuant to this section unless and until the board shall again have submitted another proposal to authorize the expansion of the current district and such proposal is approved by the required majority of the qualified voters of the unincorporated or incorporated area voting on such proposal.

67.1977. DISSOLUTION AND REPEAL OF THE TAX, PROCEDURE. — 1. The board, when presented with a petition signed by at least one-third of the registered voters in the district that voted in the last gubernatorial election, calling for an election to dissolve and repeal the tax shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

Shall (name of district) dissolve and repeal the (insert amount) percent tourism community enhancement district sales tax now in effect in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the district's indebtedness incurred pursuant to sections 67.1950 to 67.1962, whichever occurs later.

2. No dissolution of such tourism community enhancement district shall invalidate or affect any right accruing to such tourism community enhancement district or to any person or invalidate or affect any contract entered into or imposed on such tourism community enhancement district.

3. Whenever the board of directors dissolves any such tourism community enhancement district, the governing body of the city with the largest population at inception of the district, shall appoint a person to act as trustee for the district so dissolved, and such trustee, before entering upon the discharge of his duties, shall take and subscribe an oath that he will faithfully discharge the duties of his office, and shall give bond with sufficient security to be approved by the governing body of the city, to the use of such dissolved tourism community enhancement district, conditioned for the faithful discharge of this duty. The trustee may prosecute and defend to final judgment all suits instituted by or against the district, collect all moneys due the district, liquidate all lawful demands against the district, and for that purpose shall sell any property belonging to such district, or so much thereof as may be necessary, and generally to do all acts requisite to bring to a speedy close all the affairs of the district.

4. When the trustee has closed the affairs of the tourism community enhancement district, and has paid all debts due by such district, he shall pay over to the treasurer of the school district, or school districts within the district, all money remaining in his hands, based upon the amount of sales taxes collected in each school district in the prior calendar year, and take receipts therefor, and deliver to the governing body of the city with the largest population at inception of the district, all books, papers, records and deeds belonging to the dissolved district. These revenues shall not be used in any manner with respect to the calculation of the state school aid pursuant to chapter 163, RSMo.

67.1978. ANNUAL AUDIT REQUIRED. — The board of directors shall have an annual audit performed by a certified professional accountant or accounting firm. The board of directors shall provide a copy of the annual audit to the governing bodies within the district.

67.1979. REMOVAL OF BOARD MEMBERS. — Members of the board of directors may be removed by two-thirds vote of the appointing governing body.

94.812. RETAILERS LIABLE FOR TAX, COLLECTION AND RETURN OF TAXES (BRANSON). — Every retailer, vendor, operator, and other person who sells or provides goods and services subject to tax under section 94.802 or section 94.805 shall be liable and responsible for the collection and payment of taxes due under these sections and shall make a return and remit such taxes to the municipality or its designee, at such times and in such manner as the governing body of the municipality shall prescribe. The collection of the taxes imposed by these sections shall be computed in accordance with schedules or systems approved by the governing body of the municipality. [Such schedules or systems shall be designed so that no such tax is charged on any sale of one dollar or less.]

210.861. BOARD OF DIRECTORS, TERM, EXPENSES, ORGANIZATION — POWERS — FUNDS, EXPENDITURE, PURPOSE, RESTRICTIONS. — 1. When the tax prescribed by section 210.860 or section 67.1775, RSMo, is established, the governing body of the county shall appoint a board of directors consisting of nine members, who shall be residents of the county. All board members shall be appointed to serve for a term of three years, except that of the first board appointed, three members shall be appointed for one-year terms, three members for two-year terms and three members for three-year terms. Board members may be reappointed. In a city not within a county, or [in a county of the first classification with a charter form of government and a population of at least two hundred thousand that adjoins a county of the first classification with a charter form of government and a population of at least nine hundred thousand,] **any county of the first classification with a charter form of government with a population not less than nine hundred thousand inhabitants, or any county of the first classification with a charter form of government with a population not less than two hundred thousand inhabitants and not more than six hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than one hundred seventy thousand and not more than two hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than eighty thousand and not more than eighty-three thousand inhabitants, or any third classification county with a population not less than twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the third classification with a population not less than nineteen thousand five hundred and not more than twenty thousand inhabitants** the members of the community mental health board of trustees appointed pursuant to the provisions of sections 205.975 to 205.990, RSMo, shall be the board members for the community children's services fund. The directors shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses.

2. The board shall elect a chairman, vice chairman, treasurer, and such other officers as it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety bond, in an amount to be determined and in a form to be approved by the board, for the faithful performance of his duties and faithful accounting of all moneys that may come into his hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors. The board shall administer all funds generated pursuant to section 210.860 or section 67.1775, RSMo, in a manner consistent with this section.

3. The board may contract with public or not-for-profit agencies licensed or certified where appropriate to provide qualified services and may place conditions on the use of such funds. The board shall reserve the right to audit the expenditure of any and all funds. The board and any agency with which the board contracts may establish eligibility standards for the use of such funds and the receipt of services. No member of the board shall serve on the governing body, have any financial interest in, or be employed by any agency which is a recipient of funds generated pursuant to section 210.860 or section 67.1775, RSMo.

4. Revenues collected and deposited in the community children's services fund may be expended for the purchase of the following services:

(1) Up to thirty days of temporary shelter for abused, neglected, runaway, homeless or emotionally disturbed youth; respite care services; and services to unwed mothers;

(2) Outpatient chemical dependency and psychiatric treatment programs; counseling and related services as a part of transitional living programs; home-based and community-based family intervention programs; unmarried parent services; crisis intervention services, inclusive of telephone hot lines; and prevention programs which promote healthy lifestyles among children and youth and strengthen families;

(3) Individual, group, or family professional counseling and therapy services; psychological evaluations; and mental health screenings.

5. Revenues collected and deposited in the community children's services fund may not be expended for inpatient medical, psychiatric, and chemical dependency services, or for transportation services.

SECTION 1. ADDITIONAL FEE FOR SHORT-TERM RENTALS OF MOTOR VEHICLES, CHECK-OFF BOX PROVIDED (PLATTE COUNTY). — 1. Any county of the first classification without a charter form of government with a population of more than fifty-seven thousand inhabitants but less than sixty thousand inhabitants may, by ordinance or order of the governing body of the county and approved by the majority of the qualified voters of the county, require each contract covering the rental of a motor vehicle which is rented within such county on a short-term basis to provide a box which the renter may use to indicate that a one dollar fee may be added to the contract. For purposes of this section "short-term" shall mean a rental contract of less than one month. The fee shall be collected by any business located in such county which rents motor vehicles on a short-term basis upon payment of the contract by the customer.

2. The county collector of such county may provide for collection of such fee on forms provided by the county collector. Failure to collect and remit such fees by any business located in such county which rents motor vehicles on a short-term basis shall be subject to a penalty of five percent per month together with interest as determined by section 32.065, RSMo.

3. All revenues collected from the imposition of the fee as authorized by this section shall be used solely for tourism purposes within such county.

Approved July 12, 2001

SB 345 [HCS SB 345]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows St. Peters to remove weeds or trash from property after providing notice.

AN ACT to repeal sections 71.285, 82.300 and 347.189, RSMo 2000, relating to property maintenance and to enact in lieu thereof four new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 71.285. Weeds or trash, city may cause removal and issue tax bill, when — certain cities may order abatement and remove weeds or trash, when — section not to apply to certain cities, when — city official may order abatement in certain cities — removal of weeds or trash, costs.
- 82.300. Certain cities may enact ordinances, purposes, punishments (including Kansas City).
- 263.232. Eradication and control of the spread of teasel and kudzu vine.
- 347.189. Requires filing property control affidavit in certain cities, including Kansas City.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 71.285, 82.300 and 347.189, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 71.285, 82.300, 263.232 and 347.189, to read as follows:

71.285. WEEDS OR TRASH, CITY MAY CAUSE REMOVAL AND ISSUE TAX BILL, WHEN — CERTAIN CITIES MAY ORDER ABATEMENT AND REMOVE WEEDS OR TRASH, WHEN —

SECTION NOT TO APPLY TO CERTAIN CITIES, WHEN — CITY OFFICIAL MAY ORDER ABATEMENT IN CERTAIN CITIES — REMOVAL OF WEEDS OR TRASH, COSTS. —

1. Whenever weeds or trash, in violation of an ordinance, are allowed to grow or accumulate, as the case may be, on any part of any lot or ground within any city, town or village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable. The marshal or other city official as designated in such ordinance shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or his **or her** or their agents, or by posting such notice on the premises; thereupon, the marshal or other designated city official may declare the weeds or trash to be a nuisance and order the same to be abated within five days; and in case the weeds or trash are not removed within the five days, the marshal or other designated city official shall have the weeds or trash removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum. Notwithstanding the time limitations of this section, any city, town or village located in a county of the first classification may hold the hearing provided in this section four days after notice is sent or posted, and may order at the hearing that the weeds or trash shall be abated within five business days after the hearing and if such weeds or trash are not removed within five business days after the hearing, the order shall allow the city to immediately remove the weeds or trash pursuant to this section. Except for lands owned by a public utility, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation, the provisions of this subsection shall not apply to any city with a population of at least seventy thousand inhabitants which is located in a county of the first classification with a population of less than one hundred thousand inhabitants which adjoins a county with a population of less than one hundred thousand inhabitants that contains part of a city with a population of three hundred fifty thousand or more inhabitants, any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, or any city, town or village located within a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, or any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, or the city of St. Louis, where such city, town or village establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the city of St. Louis [or], in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants **or in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand**, the marshal or other designated city official may order that the weeds or trash be abated within five business days after notice is sent to or posted on the property. In case the weeds or trash are not removed within the five days, the marshal or other designated city official may have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section.

3. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the city of St. Louis [or], in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants **or in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand**, the marshal or other designated official may, without further notification, have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section. The provisions of subsection 2 and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

4. The provisions of this section shall not apply to any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification where such city establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

82.300. CERTAIN CITIES MAY ENACT ORDINANCES, PURPOSES, PUNISHMENTS (INCLUDING KANSAS CITY). — 1. Any city with a population of [three] **four** hundred [fifty] thousand or more inhabitants which is located in more than one county may enact all needful ordinances for preserving order, securing persons or property from violence, danger and destruction, protecting public and private property and for promoting the general interests and ensuring the good government of the city, and for the protection, regulation and orderly government of parks, public grounds and other public property of the city, both within and beyond the corporate limits of such city; and to prescribe and impose, enforce and collect fines, forfeitures and penalties for the breach of any provisions of such ordinances and to punish the violation of such ordinances by fine or imprisonment, or by both fine and imprisonment; but no fine shall exceed five hundred dollars nor imprisonment exceed twelve months for any such offense, except as provided in subsection 2 of this section.

2. Any city with a population of [three] **four** hundred [fifty] thousand or more inhabitants which is located in more than one county which operates a publicly owned treatment works in accordance with an approved pretreatment program pursuant to the federal Clean Water Act, 33 U.S.C. 1251, et seq. and chapter 644, RSMo, may enact all necessary ordinances which require compliance by an industrial user with any pretreatment standard or requirement. Such ordinances may authorize injunctive relief or the imposition of a fine of at least one thousand dollars but not more than five thousand dollars per violation for noncompliance with such pretreatment standards or requirements. For any continuing violation, each day of the violation shall be considered a separate offense.

3. Any city with a population of more than four hundred thousand inhabitants may enact all needful ordinances to protect public and private property from illegal and unauthorized dumping and littering, and to punish the violation of such ordinances by a fine not to exceed one thousand dollars or by imprisonment not to exceed twelve months for each offense, or by both such fine and imprisonment.

4. Any city with a population of more than four hundred thousand inhabitants may enact all needful ordinances to protect public and private property from nuisance and property maintenance code violations, and to punish the violation of such ordinances by a fine not to exceed one thousand dollars or by imprisonment not to exceed twelve months for each offense, or by both such fine and imprisonment.

263.232. ERADICATION AND CONTROL OF THE SPREAD OF TEASEL AND KUDZU VINE. — It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands:

(1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated as noxious and dangerous weeds to agriculture, by methods approved by the Environmental Protection Agency and in compliance with the manufacturer's label instructions; and

(2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby designated as a noxious and dangerous weed to agriculture, by methods approved by the Environmental Protection Agency and in conformity with the manufacturer's label instructions.

347.189. REQUIRES FILING PROPERTY CONTROL AFFIDAVIT IN CERTAIN CITIES, INCLUDING KANSAS CITY. — Any limited liability company that owns and rents or leases real property, **or owns unoccupied real property**, located within any home rule city with a population of more than four hundred thousand inhabitants which is located in more than one county, shall file with that city's clerk an affidavit listing the name and address of at least one person, who has management control and responsibility for the real property owned and leased or rented by the limited liability company, **or owned by the limited liability company and unoccupied.**

Approved July 10, 2001

SB 348 [HCS SB 348]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows for the termination of guardianship of children in certain circumstances.

AN ACT to repeal sections 453.010, 453.070, 453.080 and 475.083, RSMo 2000, relating to the adoption of foster children, and to enact in lieu thereof four new sections relating to the same subject.

SECTION

A. Enacting clause.

453.010. Petition for permission to adopt, venue, jurisdiction — no denial or delay in placement of child based on residence or domicile — expedited placement, when.

453.070. Investigations precondition for adoption — contents of investigation report — how conducted — assessments of adoptive parents, contents — waiving of investigation, when — fees — preference to foster parents, when.

453.080. Hearing — decree — contact or exchange of identifying information between adopted person and birth or adoptive parent not to be denied, when.

475.083. Termination of guardianship or conservatorship, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 453.010, 453.070, 453.080 and 475.083, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 453.010, 453.070, 453.080 and 475.083, to read as follows:

453.010. PETITION FOR PERMISSION TO ADOPT, VENUE, JURISDICTION — NO DENIAL OR DELAY IN PLACEMENT OF CHILD BASED ON RESIDENCE OR DOMICILE — EXPEDITED PLACEMENT, WHEN. — 1. Any person desiring to adopt another person as his or her child shall petition the juvenile division of the circuit court of the county in which:

- (1) The person seeking to adopt resides;
- (2) The child sought to be adopted was born;
- (3) The child is located at the time of the filing of the petition; or
- (4) Either birth person resides.

2. A petition to adopt shall not be dismissed or denied on the grounds that the petitioner is not domiciled or does not reside in any of the venues set forth in subdivision (2), (3) or (4) of subsection 1 of this section.

3. If the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to the provision of chapter 211, RSMo, any person desiring to adopt such person as his or her child shall petition the juvenile division of the circuit court which has jurisdiction over the child for permission to adopt such person as his or her child. Upon receipt of a motion from the petitioner and consent of the receiving court, the juvenile division of the circuit court which has jurisdiction over the child may transfer jurisdiction to the juvenile division of a circuit court within any of the alternative venues set forth in subsection 1 of this section.

4. If the petitioner has a spouse living and competent to join in the petition, such spouse may join therein, and in such case the adoption shall be by them jointly. If such a spouse does not join the petition the court in its discretion may, after a hearing, order such joinder, and if such order is not complied with may dismiss the petition.

5. Upon receipt of a properly filed petition, a court, as defined in this section, shall hear such petition in a timely fashion. A court or any child-placing agency shall not deny or delay the placement of a child for adoption when an approved family is available, regardless of the approved family's residence or domicile. **The court shall expedite the placement of a child for adoption pursuant to subsection 3 of this section.**

453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN. — 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, RSMo, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of

such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of [twelve] **nine** months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

453.080. HEARING — DECREE — CONTACT OR EXCHANGE OF IDENTIFYING INFORMATION BETWEEN ADOPTED PERSON AND BIRTH OR ADOPTIVE PARENT NOT TO BE DENIED, WHEN. — 1. The court shall conduct a hearing to determine whether the adoption shall be finalized. During such hearing, the court shall ascertain whether:

(1) The person sought to be adopted, if a child, has been in the lawful and actual custody of the petitioner for a period of at least six months prior to entry of the adoption decree; **except that the six month period may be waived if the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to chapter 211, RSMo, and the person desiring to adopt the child is the child's current foster parent.** "Lawful and actual custody" shall include a transfer of custody pursuant to the laws of this state, another state, a territory of the United States, or another country;

(2) The court has received and reviewed a postplacement assessment on the monthly contacts with the adoptive family pursuant to section 453.077, except for good cause shown in the case of a child adopted from a foreign country;

(3) The court has received and reviewed an updated financial affidavit;

(4) The court has received the recommendations of the guardian ad litem and has received and reviewed the recommendations of the person placing the child, the person making the assessment and the person making the postplacement assessment;

(5) There is compliance with the uniform child custody jurisdiction act, sections 452.440 to 452.550, RSMo;

(6) There is compliance with the Indian Child Welfare Act, if applicable;

(7) There is compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo; and

(8) It is fit and proper that such adoption should be made.

2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of custody has occurred pursuant to section 453.110, the court may authorize the filing for finalization in another state if the adoptive parents are domiciled in that state.

3. If the court determines the adoption should be finalized, a decree shall be issued setting forth the facts and ordering that from the date of the decree the adoptee shall be for all legal intents and purposes the child of the petitioner or petitioners. The court may decree that the name of the person sought to be adopted be changed, according to the prayer of the petition.

4. Before the completion of an adoption, the exchange of information among the parties shall be at the discretion of the parties. Upon completion of an adoption, further contact among the parties shall be at the discretion of the adoptive parents. The court shall not have jurisdiction to deny continuing contact between the adopted person and the birth parent, or an adoptive parent and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of identifying information between an adoptive parent and a birth parent.

475.083. TERMINATION OF GUARDIANSHIP OR CONSERVATORSHIP, WHEN. — 1. The authority of a guardian or conservator terminates:

- (1) When a minor ward becomes eighteen years of age;
- (2) Upon an adjudication that an incapacitated or disabled person has been restored to his capacity or ability;
- (3) Upon revocation of the letters of the guardian or conservator;
- (4) Upon the acceptance by the court of the resignation of the guardian or conservator;
- (5) Upon the death of the ward or protectee except that if there is no person other than the estate of the ward or protectee liable for the funeral and burial expenses of the ward or protectee the guardian or conservator may, with the approval of the court, contract for the funeral and burial of the deceased ward or protectee;

(6) Upon the expiration of an order appointing a guardian or conservator ad litem unless the court orders extension of the appointment;

(7) Upon an order of court terminating the guardianship or conservatorship.

2. A guardianship or conservatorship may be terminated by court order after such notice as the court may require:

- (1) If the conservatorship estate is exhausted;
- (2) If the [guardianship or] conservatorship is no longer necessary for any other reason;
- (3) **If the court finds that a parent is fit, suitable and able to assume the duties of guardianship and it is in the best interest of the minor that the guardianship be terminated.**

3. Notwithstanding the termination of the authority of a conservator, he shall continue to have such authority as may be necessary to wind up his administration.

4. At any time the guardian, conservator or any person on behalf of the ward or protectee may, individually or jointly with the ward or protectee, or the ward or protectee individually may petition the court to restore the ward or protectee, or to decrease the powers of the guardian or conservator, except that if the court determines that the petition is frivolous, the court may summarily dismiss the petition without hearing.

5. Upon the filing of a joint petition by the guardian or conservator and the ward or protectee, the court, if it finds restoration or modification to be in the best interests of the ward or protectee, may summarily order restoration or modification of the powers of the guardian or conservator without the necessity of notice and hearing.

6. Upon the filing of a petition without the joinder of the guardian or conservator, the court shall cause the petition to be set for hearing with notice to the guardian or conservator. If the ward or protectee is not represented by an attorney, the court shall appoint an attorney to represent the ward or protectee in such proceeding. The burden of proof by a preponderance of the evidence shall be upon the petitioner. Such a petition may not be filed more than once every one hundred eighty days.

7. At any time the guardian or conservator may petition the court to increase his powers. Proceedings on the petition shall be in accordance with the provisions of section 475.075.

SB 352 [SCS SB 352]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Defines terms relating to the capital improvements sales tax in certain municipalities.

AN ACT to amend chapter 94, RSMo, by adding thereto one new section relating to capital improvements.

SECTION

- A. Enacting clause.
- 94.575. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 94, RSMo, is amended by adding thereto one new section, to be known as section 94.575, to read as follows:

94.575. DEFINITIONS. — The following words, as used in sections 94.575 to 94.577, shall mean:

(1) "Capital asset" or "fixed asset", assets of a long-term character that are intended to continue to be held or used, including but not limited to land, buildings, machinery, furniture, and other equipment, including computer hardware and software;

(2) "Capital improvements", any capital or fixed asset having an estimated economic useful life of at least two years.

Approved July 10, 2001

SB 353 [SB 353]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises "recalculated levy" used to determine state aid for certain school districts.

AN ACT to repeal section 163.011, RSMo 2000, relating to recalculated tax rates for school districts, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
- 163.011. Definitions — method of calculating state aid.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 163.011, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 163.011, to read as follows:

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

- (1) "Adjusted gross income":
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(a) "District adjusted gross income per return" shall be the total Missouri individual adjusted gross income in a school district divided by the total number of Missouri income tax returns filed from the school district as reported by the state department of revenue for the second preceding year;

(b) "State adjusted gross income per return" shall be the total Missouri individual adjusted gross income divided by the total number of Missouri individual income tax returns, of those returns designating school districts, as reported by the state department of revenue for the second preceding year;

(c) "District income factor" shall be one plus thirty percent of the difference of the district income ratio minus one, except that the district income factor applied to the portion of the assessed valuation corresponding to any increase in assessed valuation above the assessed valuation of a district as of December 31, 1994, shall not exceed a value of one;

(d) "District income ratio" shall be the ratio of the district adjusted gross income per return divided by the state adjusted gross income per return;

(2) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(3) "Average daily attendance" means the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(4) "Current operating costs", all expenditures for instruction and support services excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities and payments from other districts;

(5) "District's target rate", the district's average percentage of pupils from fiscal years 2000 to 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts plus one percentage point for each year after fiscal year 2005 except that the district's target rate shall not exceed the statewide average percentage from fiscal year 2000 to fiscal year 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts;

(6) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(7) "Eligible pupils" shall be the sum of the average daily attendance of the school term plus the product of two times the average daily attendance for summer school;

(8) "Equalized assessed valuation of the property of a school district" shall be determined by multiplying the assessed valuation of the real property subclasses specified in section 137.115, RSMo, times the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent and dividing

by either the percent of true value as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the valuation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater. To the equalized locally assessed valuation of each district shall be added the assessed valuation of tangible personal property. The assessed valuation of property which has previously been excluded from the tax rolls, which is being contested as not being taxable and which increases the total assessed valuation of the school district by fifty percent or more, shall not be included in the calculation of equalized assessed valuation under this subdivision;

(9) "Fiscal instructional ratio of efficiency", the quotient of the sum of the district's current operating costs for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, excluding student activities, divided by the sum of the district's current operating cost for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation costs;

(10) "Free and reduced lunch eligible pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(11) "Guaranteed tax base" means the amount of equalized assessed valuation per eligible pupil guaranteed each school district by the state in the computation of state aid. To compute the guaranteed tax base, school districts shall be ranked annually from lowest to highest according to the amount of equalized assessed valuation per pupil. The guaranteed tax base shall be based upon the amount of equalized assessed valuation per pupil of the school district in which the ninety-fifth percentile of the state aggregate number of pupils falls during the third preceding year and shall be equal to the state average equalized assessed valuation per eligible pupil for the third preceding year times two and one hundred and sixty-seven thousandths; except that, for the purposes of line 14(b) the guaranteed tax base shall be no greater than the guaranteed tax base used for the 1998-99 payment year. The average equalized assessed valuation per pupil shall be the quotient of the total equalized assessed valuation of the state divided by the number of eligible pupils;

(12) "Membership" shall be the average of (1) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days and (2) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(13) "Operating levy for school purposes" for districts making transfers pursuant to subsection 4 of section 165.011, RSMo, based upon amounts multiplied by the guaranteed tax base, or making payments or expenditures related to obligations made pursuant to section 177.088, RSMo, or any combination of such transfers, payments or expenditures, means the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent

pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, and, for other districts, means the sum of tax rates levied for incidental, teachers', debt service and capital projects funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, with no more than eighteen cents of the sum levied in the debt service and capital projects funds. Any portion of the operating levy for school purposes levied in the debt service and capital projects funds in excess of a sum of ten cents must be authorized by a vote of the people, after August 28, 1998, approving an increase in the operating levy, or a full waiver of the rollback pursuant to section 164.013, RSMo, with a tax rate ceiling in excess of the minimum tax rate or an issuance of general obligation bond. The operating levy shall be, after all adjustments and equalization of the operating levy, no greater than a maximum value of four dollars and ninety-five cents per one hundred dollars assessed valuation, except that the operating levy shall be no greater than a maximum value of four dollars and seventy cents per one hundred dollars assessed valuation for the purposes of line 2 of subsection 6 of section 163.031. To equalize the operating levy, multiply the aggregate tax rates for teachers' and incidental funds by either the percent of true value, as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the evaluation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater, and divide by the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, provided that for any district for which the equivalent sales ratio is equal to or greater than thirty-three and one-third percent, the equalized operating levy shall be the adjusted operating levy. For any county in which the equivalent sales ratio is less than thirty-one and two-thirds percent, the state tax commission shall conduct a second study in that county and shall use a sample consisting of the parcels used as a sample in the original study combined with an equal number of newly selected parcels. If the new ratio is higher than the original ratio provided by this subdivision, the new ratio shall be used for the purposes of this subdivision and for determining equalized assessed valuation pursuant to subdivision (8) of this section. For the purposes of calculating state aid pursuant to section 163.031, for any district which has not [enacted] **decreased its tax rate from the previous year amount due to an increased amount of** a voluntary tax rate rollback [nor increased the amount of a voluntary tax rate rollback from the previous year's amount], the tax rate used to determine a district's entitlement shall be adjusted so that any decrease in the entitlement due to a decrease in the tax rate resulting from the reassessment shall equal the decrease in the deduction for the assessed valuation of the district as a result of the change in the tax rate due to reassessment. The tax rate adjustments required under this subdivision due to reassessment shall be cumulative and shall be applied each year to determine the tax rate used to calculate the entitlement; [except that whenever the actual current operating levy equals or exceeds the tax rate calculated pursuant to this subdivision for the purpose of determining the district's entitlement, then the prior tax rate adjustments required under this subdivision due to reassessment shall be eliminated and shall not be applied in determining the tax rate used to calculate the district entitlement, except that whenever the actual current operating levy is increased by school board action prior to January 1, 2000, or by district voter approval at any time, to a level which equals or exceeds the tax rate calculated pursuant to this subdivision for the purpose of determining the districts entitlement, then the prior tax rate adjustments required under this subdivision due to reassessment shall be eliminated after five years and shall not thereafter be applied in determining the tax rate used to calculate the district entitlement;]

(14) "School purposes" pertains to teachers' and incidental funds;

(15) "Teacher" means any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social

worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri.

Approved June 26, 2001

SB 357 [SCS SB 357]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies licensing provisions for psychologists and professional counselors.

AN ACT to repeal section 337.029 as enacted by conference committee substitute for senate committee substitute for house substitute for house committee substitute for house bills nos. 1601, 1591, 1592, 1479, 1615 and house committee substitute for house bills nos. 1094, 1213, 1311 & 1428, eighty-ninth general assembly, second regular session, section 337.029 as enacted by house committee substitute for senate committee substitute for senate bill no. 732 of the eighty-ninth general assembly, second regular session, and section 337.510, RSMo 2000, relating to professional services, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 337.029. Licenses based on reciprocity to be issued, when — health service provider certification eligibility.
- 337.029. Licenses based on reciprocity to be issued, when — health service provider certification eligibility.
- 337.510. Education, experience requirements for licensure — reciprocity — provisional professional counselor license issued, when, requirements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 337.029 as enacted by conference committee substitute for senate committee substitute for house substitute for house committee substitute for house bills nos. 1601, 1591, 1592, 1479, 1615 and house committee substitute for house bills nos. 1094, 1213, 1311 & 1428, eighty-ninth general assembly, second regular session, section 337.029 as enacted by house committee substitute for senate committee substitute for senate bill no. 732 of the eighty-ninth general assembly, second regular session, and section 337.510, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 337.029 and 337.510, to read as follows:

337.029. LICENSES BASED ON RECIPROCITY TO BE ISSUED, WHEN — HEALTH SERVICE PROVIDER CERTIFICATION ELIGIBILITY. — 1. A psychologist licensed in another jurisdiction who has had no violations and no suspensions and no revocation of a license to practice psychology in any jurisdiction may receive a license in Missouri, provided the psychologist passes a written examination on Missouri laws and regulations governing the practice of psychology and meets one of the following criteria:

- (1) Is a diplomate of the American Board of Professional Psychology;
 - (2) Is a member of the National Register of Health Service Providers in Psychology;
 - (3) Is currently licensed or certified as a psychologist in another jurisdiction who is then a signatory to the Association of State and Provincial Psychology Board's reciprocity agreement;
 - (4) Is currently licensed or certified as a psychologist in another state, territory of the United States, or the District of Columbia and:
-

(a) Has a doctoral degree in psychology from a program accredited, or provisionally accredited, by the American Psychological Association or that meets the requirements as set forth in subdivision (3) of subsection 3 of section 337.025;

(b) Has been licensed for the preceding five years; and

(c) Has had no disciplinary action taken against the license for the preceding five years; [or]

(5) Is currently licensed or certified as a psychologist in a state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications; **or**

(6) Holds a current certificate of professional qualification (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB).

2. Notwithstanding the provisions of subsection 1 of this section, applicants may be required to pass an oral examination as adopted by the committee.

3. A psychologist who receives a license for the practice of psychology in the state of Missouri on the basis of reciprocity as listed in subsection 1 of this section or by endorsement of the score from the examination of professional practice in psychology score will also be eligible for and shall receive certification from the committee as a health service provider if the psychologist meets one or more of the following criteria:

(1) Is a diplomate of the American Board of Professional Psychology in one or more of the specialties recognized by the American Board of Professional Psychology as pertaining to health service delivery;

(2) Is a member of the National Register of Health Service Providers in Psychology; or

(3) Has completed or obtained through education, training, or experience the requisite knowledge comparable to that which is required pursuant to section 337.033.

[337.029. LICENSES BASED ON RECIPROCITY TO BE ISSUED, WHEN — HEALTH SERVICE PROVIDER CERTIFICATION ELIGIBILITY. — 1. A psychologist licensed in another jurisdiction who has had no violations and no suspensions and no revocation of a license to practice psychology in any jurisdiction may receive a license in Missouri, provided the psychologist passes a written examination on Missouri laws and regulations governing the practice of psychology and meets one of the following criteria:

(1) Is a diplomate of the American Board of Professional Psychology;

(2) Is a member of the National Register of Health Service Providers in Psychology;

(3) Is currently licensed or certified as a psychologist in another jurisdiction who is then a signatory to the Association of State and Provincial Psychology Board's reciprocity agreement;

(4) Is currently licensed or certified as a psychologist in another state, territory of the United States, or the District of Columbia whose requirements for licensure at the time the applicant was licensed were substantially equal to or greater than this state's requirements were for licensure at such time; or

(5) Is currently licensed or certified as a psychologist in a state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.

2. Notwithstanding the provisions of subsection 1 of this section, applicants may be required to pass an oral examination as adopted by the committee.

3. A psychologist who receives a license for the practice of psychology in the state of Missouri on the basis of reciprocity as listed in subsection 1 of this section or by endorsement of the score from the examination of professional practice in psychology score will also be eligible for and shall receive certification from the committee as a health service provider if the psychologist meets one or more of the following criteria:

(1) Is a diplomate of the American Board of Professional Psychology in one or more of the specialties recognized by the American Board of Professional Psychology as pertaining to health service delivery;

(2) Is a member of the National Register of Health Service Providers in Psychology; or

(3) Has completed or obtained through education, training, or experience the requisite knowledge comparable to that which is required pursuant to section 337.033.]

337.510. EDUCATION, EXPERIENCE REQUIREMENTS FOR LICENSURE — RECIPROCITY — PROVISIONAL PROFESSIONAL COUNSELOR LICENSE ISSUED, WHEN, REQUIREMENTS. —

1. Each applicant for licensure as a professional counselor shall furnish evidence to the committee that:

(1) The applicant has met any one of the three following education-experience requirements:

(a) The applicant has received a doctoral degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the doctoral degree; or

(b) The applicant has received a specialist's degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the specialist's degree; or

(c) The applicant has received at least a master's degree with a major in counseling, or its equivalent, from an acceptable educational institution as defined by division rules, and has completed two years of acceptable supervised counseling experience subsequent to receipt of the master's degree. An applicant may substitute thirty semester hours of post-master's graduate study, or their equivalent, for one of the two required years of acceptable supervised counseling experience, if such hours are clearly related to the field of professional counseling and are earned from an acceptable educational institution.

(2) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics.

2. Any person [not a resident of this state] holding a valid unrevoked, **unsuspended** and unexpired license as a professional counselor issued by a state having substantially the same licensing requirements as this state [may] **shall** be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.507.

3. **Any person who previously held a valid unrevoked, unsuspended license as a professional counselor in this state and who held a valid license in another state at the time of application to the committee shall be granted a license to engage in professional counseling in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.507.**

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.500 to 337.540 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) and (2) of subsection 1 of this section or with the provisions of [subsection] **subsections 2 or 3** of this section. The division shall issue a provisional professional counselor license to any applicant who meets all requirements of subdivisions (1) and (2) of subsection 1 of this section, but who has not completed the required one or two years of acceptable supervised counseling experience required by paragraphs (a) to (c) of subdivision (1) of subsection 1 of this section, and such applicant may reapply for licensure as a professional counselor upon completion of such acceptable supervised counseling experience.

Approved July 13, 2001

SB 369 [CCS HS HCS SS SCS SB 369]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows political subdivisions to require permits for public utility right-of-way use.

AN ACT to amend chapter 67, RSMo, by adding thereto nine new sections relating to utility access to public rights-of-way.

SECTION

- A. Enacting clause.
- 67.1830. Definitions.
- 67.1832. Political subdivisions required to consent to certain activities by public utility right-of-way users — recovery of costs, procedure — permitted ordinance requirements.
- 67.1834. Restoration of a public right-of-way after excavation, standards and conditions, completion dates.
- 67.1836. Denial of an application for a right-of-way permit, when — revocation of a permit, when — bulk processing of permits allowed, when.
- 67.1838. Disputes to be reviewed by governing body of the political subdivision — mediation or binding arbitration permitted, when, procedure.
- 67.1840. Fee imposed to recover management costs, amount — allocation of such fees — uniform application of right-of-way laws required.
- 67.1842. Prohibited acts by political subdivisions — no right-of-way permit required for projects commenced prior to August 28, 2001 — no fee required, when.
- 67.1844. Compliance with applicable safety and construction codes required — licensed contractors and subcontractors required, when.
- 67.1846. Exceptions to applicability of right-of-way laws.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto nine new sections, to be known as sections 67.1830, 67.1832, 67.1834, 67.1836, 67.1838, 67.1840, 67.1842, 67.1844 and 67.1846, to read as follows:

67.1830. DEFINITIONS. — As used in sections 67.1830 to 67.1846, the following terms shall mean:

(1) "Abandoned equipment or facilities", any equipment materials, apparatuses, devices or facilities that are:

- (a) Declared abandoned by the owner of such equipment or facilities;
- (b) No longer in active use, physically disconnected from a portion of the operating facility or any other facility that is in use or in service, and no longer capable of being used for the same or similar purpose for which the equipment, apparatuses or facilities were installed; or
- (c) No longer in active use and the owner of such equipment or facilities fails to respond within thirty days to a written notice sent by a political subdivision;

(2) "Degradation", the actual or deemed reduction in the useful life of the public right-of-way resulting from the cutting, excavation or restoration of the public right-of-way;

(3) "Emergency", includes but is not limited to the following:

(a) An unexpected or unplanned outage, cut, rupture, leak or any other failure of a public utility facility that prevents or significantly jeopardizes the ability of a public utility to provide service to customers;

(b) An unexpected or unplanned outage, cut, rupture, leak or any other failure of a public utility facility that results or could result in danger to the public or a material delay or hindrance to the provision of service to the public if the outage, cut, rupture, leak or

any other such failure of public utility facilities is not immediately repaired, controlled, stabilized or rectified; or

(c) Any occurrence involving a public utility facility that a reasonable person could conclude under the circumstances that immediate and undelayed action by the public utility is necessary and warranted;

(4) "Excavation", any act by which earth, asphalt, concrete, sand, gravel, rock or any other material in or on the ground is cut into, dug, uncovered, removed, or otherwise displaced, by means of any tools, equipment or explosives, except that the following shall not be deemed excavation:

(a) Any de minimis displacement or movement of ground caused by pedestrian or vehicular traffic;

(b) The replacement of utility poles and related equipment at the existing general location that does not involve either a street or sidewalk cut; or

(c) Any other activity which does not disturb or displace surface conditions of the earth, asphalt, concrete, sand, gravel, rock or any other material in or on the ground;

(5) "Management costs" or "rights-of-way management costs", the actual costs a political subdivision reasonably incurs in managing its public rights-of-way, including such costs, if incurred, as those associated with the following:

(a) Issuing, processing and verifying right-of-way permit applications;

(b) Inspecting job sites and restoration projects;

(c) Protecting or moving public utility right-of-way user construction equipment after reasonable notification to the public utility right-of-way user during public right-of-way work;

(d) Determining the adequacy of public right-of-way restoration;

(e) Restoring work inadequately performed after providing notice and the opportunity to correct the work; and

(f) Revoking right-of-way permits.

Right-of-way management costs shall be the same for all entities doing similar work. Management costs or rights-of-way management costs shall not include payment by a public utility right-of-way user for the use or rent of the public right-of-way, degradation of the public right-of-way or any costs as outlined in paragraphs (a) to (h) of this subdivision which are incurred by the political subdivision as a result of use by users other than public utilities, the fees and cost of litigation relating to the interpretation of this section or section 67.1832, or litigation, interpretation or development of any ordinance enacted pursuant to this section or section 67.1832, or the political subdivision's fees and costs related to appeals taken pursuant to section 67.1838. In granting or renewing a franchise for a cable television system, a political subdivision may impose a franchise fee and other terms and conditions permitted by federal law.

(6) "Managing the public right-of-way", the actions a political subdivision takes, through reasonable exercise of its police powers, to impose rights, duties and obligations on all users of the right-of-way, including the political subdivision, in a reasonable, competitively neutral and nondiscriminatory and uniform manner, reflecting the distinct engineering, construction, operation, maintenance and public work and safety requirements applicable to the various users of the public right-of-way, provided that such rights, duties and obligations shall not conflict with any federal law or regulation. In managing the public right-of-way, a political subdivision may:

(a) Require construction performance bonds or insurance coverage or demonstration of self-insurance at the option of the political subdivision or if the public utility right-of-way user has twenty-five million dollars in net assets and does not have a history of permitting noncompliance within the political subdivision as defined by the political subdivision, then the public utility right-of-way user shall not be required to provide such bonds or insurance;

- (b) Establish coordination and timing requirements that do not impose a barrier to entry;
- (c) Require public utility right-of-way users to submit, for right-of-way projects commenced after the effective date of this act, requiring excavation within the public right-of-way, whether initiated by a political subdivision or any public utility right-of-way user, project data in the form maintained by the user and in a reasonable time after receipt of the request based on the amount of data requested;
- (d) Establish right-of-way permitting requirements for street excavation;
- (e) Establish removal requirements for abandoned equipment or facilities, if the existence of such facilities prevents or significantly impairs right-of-way use, repair, excavation or construction;
- (f) Establish permitting requirements for towers and other structures or equipment for wireless communications facilities in the public right-of-way, notwithstanding the provisions of section 67.1832;
- (g) Establish standards for street restoration in order to lessen the impact of degradation to the public right-of-way; and
- (h) Impose permit conditions to protect public safety;
- (7) "Political subdivision", a city, town, village, county of the first classification or county of the second classification;
- (8) "Public right-of-way", the area on, below or above a public roadway, highway, street or alleyway in which the political subdivision has an ownership interest, but not including:
 - (a) The airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast service;
 - (b) Easements obtained by utilities or private easements in platted subdivisions or tracts;
 - (c) Railroad rights-of-way and ground utilized or acquired for railroad facilities; or
 - (d) Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a municipally owned or operated utility pursuant to chapter 91, RSMo, or pursuant to a charter form of government;
- (9) "Public utility", every cable television service provider, every pipeline corporation, gas corporation, electrical corporation, rural electric cooperative, telecommunications company, water corporation, heating or refrigerating corporation or sewer corporation under the jurisdiction of the public service commission; every municipally owned or operated utility pursuant to chapter 91, RSMo, or pursuant to a charter form of government or cooperatively owned or operated utility pursuant to chapter 394, RSMo; every street light maintenance district; every privately owned utility; and every other entity, regardless of its form of organization or governance, whether for profit or not, which in providing a public utility type of service for members of the general public, utilizes pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses, in the collection, exchange or dissemination of its product or services through the public rights-of-way;
- (10) "Public utility right-of-way user", a public utility owning or controlling a facility in the public right-of-way; and
- (11) "Right-of-way permit", a permit issued by a political subdivision authorizing the performance of excavation work in a public right-of-way.

67.1832. POLITICAL SUBDIVISIONS REQUIRED TO CONSENT TO CERTAIN ACTIVITIES BY PUBLIC UTILITY RIGHT-OF-WAY USERS — RECOVERY OF COSTS, PROCEDURE — PERMITTED ORDINANCE REQUIREMENTS. — 1. In addition to any other grants for the use of public

thoroughfares, and pursuant to this section, a political subdivision shall grant its consent to a public utility right-of-way user authorized to do business pursuant to the laws of this state or by license of the Federal Energy Regulatory Commission, United States Department of Transportation, or the Federal Communications Commission to construct, maintain and operate all equipment, facilities, devices, materials, apparatuses, or media including but not limited to, conduits, ducts, lines, pipes, wires, hoses, cables, culverts, tubes, poles, towers, manholes, transformers, regulator stations, underground vaults, receivers, transmitters, satellite dishes, micro cells, Pico cells, repeaters, or amplifiers useable for the transmission or distribution of any service or commodity installed below or above ground in the public right-of-way; provided that, no political subdivision shall require any conditions that are inconsistent with the rules and regulations of the Federal Energy Regulatory Commission, United States Department of Transportation, Federal Communications Commission or the Missouri public service commission.

2. Pursuant to this section, a political subdivision may manage its public rights-of-way and may recover its rights-of-way management costs as set forth in sections 67.1830 to 67.1846. The authority granted in this section may be authorized at the option of the political subdivision, and the exercise of this authority is not mandated pursuant to this section. A political subdivision may, by ordinance:

(1) Require a public utility right-of-way user seeking to excavate within a public right-of-way to obtain a right-of-way permit and to impose permit conditions consistent with the political subdivision's management of the right-of-way;

(2) Require public utility right-of-way users to provide required notice to the political subdivision by submitting plans for anticipated construction projects that require excavation within the public right-of-way; and

(3) In cases of emergency, public utility right-of-way users may proceed with required work without a permit; however, a political subdivision may require submission of the necessary information and permit fee following the emergency.

67.1834. RESTORATION OF A PUBLIC RIGHT-OF-WAY AFTER EXCAVATION, STANDARDS AND CONDITIONS, COMPLETION DATES. — 1. A public utility right-of-way user, after an excavation of a public right-of-way, shall provide for restoration of the right-of-way and surrounding areas, including the pavement and its foundation, in accordance with the standards and conditions of the political subdivision, unless the political subdivision, at its option, chooses to perform its own street restoration, in which case the public utility right-of-way user shall be responsible for reimbursing the political subdivision its reasonable actual restoration costs within thirty days of invoice. Restoration of the public right-of-way shall be completed within the dates specified in the right-of-way permit, unless the permittee obtains a waiver, extension or a new or amended right-of-way permit. Every right-of-way user to whom a right-of-way permit has been granted shall guarantee for a period of four years the restoration of the right-of-way in the area where such right-of-way user conducted excavation and performed the restoration.

2. If a public utility right-of-way user fails to restore the public right-of-way within the date specified in the right-of-way permit, or has not acquired a waiver or extension to such permit, a political subdivision is authorized to perform its own restoration required as a result of the excavation, and require the public utility right-of-way user to reimburse the political subdivision for the actual costs of such restoration.

67.1836. DENIAL OF AN APPLICATION FOR A RIGHT-OF-WAY PERMIT, WHEN — REVOCATION OF A PERMIT, WHEN — BULK PROCESSING OF PERMITS ALLOWED, WHEN. — 1. A political subdivision may deny an application for a right-of-way permit if:

(1) The public utility right-of-way user fails to provide all the necessary information requested by the political subdivision for managing the public right-of-way;

(2) The public utility right-of-way user has failed to return the public right-of-way to its previous condition under a previous permit;

(3) The political subdivision has provided the public utility right-of-way user with a reasonable, competitively neutral, and nondiscriminatory justification for requiring an alternative method for performing the work identified in the permit application or a reasonable alternative route that will result in neither additional installation expense up to ten percent to the public utility right-of-way user nor a declination of service quality;

(4) The political subdivision determines that the denial is necessary to protect the public health and safety, provided that the authority of the political subdivision does not extend to those items under the jurisdiction of the public service commission, such denial shall not interfere with a public utility's right of eminent domain of private property, and such denials shall only be imposed on a competitively neutral and nondiscriminatory basis; or

(5) The area is environmentally sensitive as defined by state statute or federal law or is a historic district as defined by local ordinance.

2. A political subdivision may, after reasonable notice and an opportunity to cure, revoke a right-of-way permit granted to a public utility right-of-way user, with or without fee refund, and/or impose a penalty as established by the political subdivision until the breach is cured, but only in the event of a substantial breach of the terms and material conditions of the permit. A substantial breach by a permittee includes but is not limited to:

(1) A material violation of a provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the political subdivision or its citizens;

(3) A material misrepresentation of fact in the right-of-way permit application;

(4) A failure to complete work by the date specified in the right-of-way permit, unless a permit extension is obtained or unless the failure to complete the work is due to reasons beyond the permittee's control; and

(5) A failure to correct, within the time specified by the political subdivision, work that does not conform to applicable national safety codes, industry construction standards, or local safety codes that are no more stringent than national safety codes, upon inspection and notification by the political subdivision of the faulty condition.

3. Any political subdivision that requires public utility right-of-way users to obtain a right-of-way permit, except in an emergency, prior to performing excavation work within a public right-of-way shall promptly, but not longer than thirty-one days, process all completed permit applications. In order to avoid excessive processing and accounting costs to either the political subdivision or the public utility right-of-way user, the political subdivision may establish procedures for bulk processing of permits and periodic payment of permit fees.

67.1838. DISPUTES TO BE REVIEWED BY GOVERNING BODY OF THE POLITICAL SUBDIVISION — MEDIATION OR BINDING ARBITRATION PERMITTED, WHEN, PROCEDURE. —

1. A public utility right-of-way user that has been denied a right-of-way permit, has had its right-of-way permit revoked, believes that the fees imposed on the public right-of-way user by the political subdivision do not conform to the requirements of section 67.1840 or asserts any other issues related to the use of the public right-of-way, shall have, upon written request, such denials, revocations, fee impositions, or other disputes reviewed by the governing body of the political subdivision or an entity assigned by the governing body for this purpose. The governing body of the political subdivision or its delegated entity shall specify, in its permit processing schedules, the maximum number of days by which the review request shall be filed in order to be reviewed by the governing body of the

political subdivision or its delegated entity. A decision affirming the denial, revocation, fee imposition or dispute resolution shall be in writing and supported by written findings establishing the reasonableness of the decision.

2. Upon affirmation by the governing body of the denial, revocation, fee imposition or dispute resolution, the public utility right-of-way user may, in addition to all other remedies and if both parties agree, have the right to have the matter resolved by mediation or binding arbitration. Binding arbitration shall be before an arbitrator agreed to by both the political subdivision and the public utility right-of-way user. The costs and fees of a single arbitrator shall be borne equally by the political subdivision and the public utility right-of-way user.

3. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three-person arbitration panel consisting of one arbitrator selected by the political subdivision, one arbitrator selected by the public utility right-of-way user, and one person selected by the other two arbitrators. In the event that a three-person arbitrator panel is necessary, each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third arbitrator and of the arbitration.

4. Each party to the arbitration shall pay its own costs, disbursements and attorney fees.

67.1840. FEE IMPOSED TO RECOVER MANAGEMENT COSTS, AMOUNT — ALLOCATION OF SUCH FEES — UNIFORM APPLICATION OF RIGHT-OF-WAY LAWS REQUIRED. — 1. A political subdivision may recover its right-of-way management costs by imposing a fee for permits issued by the political subdivision. A political subdivision shall not recover from a public utility right-of-way user costs caused by another entity's activity or inactivity in the public right-of-way.

2. Right-of-way permit fees imposed by a political subdivision on public utility right-of-way users shall be:

(1) Based on the actual, substantiated costs reasonably incurred by the political subdivision in managing the public right-of-way;

(2) Based on an allocation among all users of the public right-of-way, including the political subdivision itself, which shall reflect the proportionate costs imposed on the political subdivision by each of the various types of uses of the public rights-of-way;

(3) Imposed on a competitively neutral and nondiscriminatory basis; and

(4) Imposed in a manner so that aboveground uses of the public right-of-way do not bear costs incurred by the political subdivision to regulate underground uses of the public right-of-way.

3. The public utility right-of-way user shall have the right to equitably allocate, and may separately state in the customer's bill, any or all right-of-way permit fees imposed by a political subdivision to:

(1) Customers of the public utility right-of-way user residing in the political subdivision; or

(2) Any specific customer or customers requesting or requiring the public utility right-of-way user to perform work for which the acquisition of a right-of-way permit is necessary.

4. The rights, duties and obligations regarding the use of the public right-of-way imposed pursuant to sections 67.1830 to 67.1846 shall be uniformly applied to all users of the public right-of-way, including the political subdivision.

67.1842. PROHIBITED ACTS BY POLITICAL SUBDIVISIONS — NO RIGHT-OF-WAY PERMIT REQUIRED FOR PROJECTS COMMENCED PRIOR TO AUGUST 28, 2001 — NO FEE REQUIRED, WHEN. — 1. In managing the public right-of-way and in imposing fees pursuant to sections 67.1830 to 67.1846, no political subdivision shall:

- (1) Unlawfully discriminate among public utility right-of-way users;
- (2) Grant a preference to any public utility right-of-way user;
- (3) Create or erect any unreasonable requirement for entry to the public right-of-way by public utility right-of-way users;
- (4) Require a telecommunications company to obtain a franchise or require a public utility right-of-way user to pay for the use of the public right-of-way, except as provided in sections 67.1830 to 67.1846; or
- (5) Enter into a contract or any other agreement for providing for an exclusive use, occupancy or access to any public right-of-way.

2. A public utility right-of-way user shall not be required to apply for or obtain right-of-way permits for projects commenced prior to the effective date of this act, requiring excavation within the public right-of-way, for which the user has obtained the required consent of the political subdivision, or that are otherwise lawfully occupying or performing work within the public right-of-way. The public utility right-of-way user may be required to obtain right-of-way permits prior to any excavation work performed within the public right-of-way after the effective date of this act.

3. A political subdivision shall not collect a fee imposed pursuant to section 67.1840 through the provision of in-kind services by a public utility right-of-way user, nor require the provision of in-kind services as a condition of consent to use the political subdivision's public right-of-way; however, nothing in this subsection shall preclude requiring services of a cable television operator, open video system provider or other video programming provider as permitted by federal law.

67.1844. COMPLIANCE WITH APPLICABLE SAFETY AND CONSTRUCTION CODES REQUIRED — LICENSED CONTRACTORS AND SUBCONTRACTORS REQUIRED, WHEN. — 1. The performance of excavation work in the public right-of-way shall be in accordance with the applicable safety and construction codes. Nothing in sections 67.1830 to 67.1846 shall be construed as limiting the authority of the political subdivision to require public utility right-of-way users to comply with national safety codes and all other applicable zoning and safety ordinances, to the extent not inconsistent with public service commission laws or administrative rules.

2. Any contractor or subcontractor used for the performance of excavation work in the public right-of-way shall be properly licensed pursuant to the laws of the state and all applicable local ordinances if required, and each contractor or subcontractor shall have the same obligations with respect to its work as a public utility right-of-way user would have pursuant to sections 67.1830 to 67.1846 and applicable laws if the work were performed by the public utility. The public utility right-of-way user shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with its permits and applicable law and responsible for promptly correcting acts or omissions by any contractor or subcontractor.

67.1846. EXCEPTIONS TO APPLICABILITY OF RIGHT-OF-WAY LAWS. — 1. Nothing in sections 67.1830 to 67.1846 relieves the political subdivision of any obligations under an existing franchise agreement in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846 will apply to that portion of any ordinance passed prior to May 1, 2001, which establishes a street degradation fee. Nothing in sections 67.1830 to 67.1846 shall be construed as limiting the authority of county highway engineers or relieving public utility right-of-way users from any obligations set forth in chapters 229 to 231, RSMo. Nothing in sections 67.1830 to 67.1846 shall be deemed to relieve a public utility right-of-way user of the provisions of an existing franchise, franchise fees, license or other agreement or permit in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision or public utility right-of-way user from renewing or entering into a

new or existing franchise, as long as all other public utility right-of-way users have use of the public right-of-way on a nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846 shall prevent a grandfathered political subdivision from enacting new ordinances, including amendments of existing ordinances, charging a public utility right-of-way user a fair and reasonable linear foot fee or antenna fee or from enforcing or renewing existing linear foot ordinances for use of the right-of-way, provided that the public utility right-of-way user either:

(1) Is entitled under the ordinance to a credit for any amounts paid as business license taxes or gross receipts taxes; or

(2) Is not required by the political subdivision to pay the linear foot fee if the public utility right-of-way user is paying gross receipts taxes.

For purposes of this section, a "grandfathered political subdivision" is any political subdivision which has, prior to May 1, 2001, enacted one or more ordinances reflecting a policy of imposing any linear foot fees on any public utility right-of-way user, including ordinances which were specific to particular public right-of-way users. Any existing ordinance or new ordinance passed by a grandfathered political subdivision providing for payment of the greater of a linear foot fee or a gross receipts fee shall be enforceable only with respect to the linear foot fee.

2. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision from enacting, renewing or enforcing provisions of an ordinance to require a business license tax, sales tax, occupation tax, franchise tax or franchise fee, property tax or other similar tax, to the extent consistent with federal law. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision from enacting, enforcing or renewing provisions of an ordinance to require a gross receipts tax pursuant to chapter 66, chapter 92, or chapter 94, RSMo. For purposes of this subsection, the term "franchise fee" shall mean "franchise tax".

Approved July 12, 2001

SB 371 [HS HCS SB 371]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies and clarifies provisions of certain state retirement systems.

AN ACT to repeal sections 104.010, 104.170, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.600, 104.601, 104.602, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093 and 476.524, RSMo 2000, relating to certain public retirement systems administered pursuant to chapter 104, RSMo, and to enact in lieu thereof thirty-eight new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 104.010. Definitions.
- 104.170. Officers of board of trustees, election, terms, duties — executive director, appointment, powers and duties — process to be served on executive director.
- 104.175. Liability insurance coverage authorized, state highways and transportation commission.
- 104.312. Pension, annuity, benefit, right, and allowance is marital property — division of benefits order, requirements — information for courts — rejection of division of benefits order — basis for payment to alternate payee.

- 104.330. State employees to be members — military service, effect.
- 104.339. Creditable prior service, members entitled to.
- 104.345. Circuit clerks entitled to prior service credit, when — certain circuit clerks to be appointed consultants, duties, compensation to be creditable service, when — clerks entitled to refund of contribution, procedure, also entitled to prior service credit.
- 104.372. General assembly members and elective state officers, survivor's income payments, when, amount — death before retirement survivor's benefit — creditable prior service for certain teachers employed by state — surviving spouse, special consultant — payments in lieu of other provisions, when.
- 104.374. State employee's normal annuity, computation — absences counted as membership service, when — employees and general assembly members continuing to serve, cost-of-living increases on retirement or death.
- 104.380. Retired members elected to state office, effect of — reemployment of retired members, effect of.
- 104.395. Options available to members in lieu of normal annuity — spouse as designated beneficiary, when — statement that spouse aware of retirement plan elected — reversion of amount of benefit, conditions — special consultant, compensation — election to be made, when.
- 104.401. Retirement requirements and procedure, annuity or deferred normal annuity, payment to commence when — temporary waiver of right to receive, effect, limitation.
- 104.420. Death before retirement, member or disabled member — surviving spouse to receive benefits — if no qualifying surviving spouse, children's benefits.
- 104.450. Board of trustees, membership of — appointed members and elected members, how chosen.
- 104.515. Insurance and disability benefits to be kept in separate accounts — state's contribution, amount, contribution to be made from highway funds for certain employees, when — employees and families, who are covered for medical insurance — premium collection for amount not covered by state — special consultants, duties, compensation, benefits.
- 104.518. Disability income benefits, employees covered — certain members of water patrol eligible.
- 104.530. Actions by and against system — process, how served — venue.
- 104.600. Service credit rights of employee having worked for both transportation department and other state agency.
- 104.601. Years of service to include unused accumulated sick leave, when — credited sick leave not counted for vesting purposes — applicable also to teachers' and school employees' retirement system.
- 104.602. Creditable service not previously credited to members of either system to be credited, when — duplicate credit prohibited — death of a member prior to exercise of transfer rights, rights of survivor.
- 104.625. Annuities and lump sum payments, when, determination of amount.
- 104.1003. Definitions.
- 104.1021. Credited service determined by board — calculation.
- 104.1024. Retirement, application — annuity payments, how paid, amount — election to receive annuity or lump sum payment for certain employees, determination of amount.
- 104.1027. Options for election of annuity reduction — spouse's benefits.
- 104.1030. Death prior to annuity starting date, effect of — surviving spouse's benefits — applicability to members of general assembly and statewide officials.
- 104.1039. Reemployment of a retiree, effect on annuity.
- 104.1051. Annuity deemed marital property — division of benefits.
- 104.1072. Life insurance benefits — medical insurance for certain retirees.
- 104.1078. Separate accounts established for benefits — contributions by the state — board to determine premiums.
- 104.1093. Designation of an agent — revocation of agent's authority.
- 104.1200. Definitions.
- 104.1205. Duties of board.
- 104.1210. No creditable service for outside employee or member, when — information provided by institutions and administrators, when.
- 104.1215. Outside employee's election for membership, when.
- 476.517. One-time retirement plan election for certain judges.
- 476.524. Judge who served in armed forces may elect to purchase creditable prior service, limitation — amount of contribution — payment period — treatment of payments.
 - 1. Certain legal advisors to be made special consultants on problems of retirement — legal advisor defined.
 - 2. Spouse defined.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 104.010, 104.170, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.600, 104.601, 104.602, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093 and 476.524, RSMo 2000, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 104.010, 104.170, 104.175, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395,

104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.601, 104.602, 104.625, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093, 104.1200, 104.1205, 104.1210, 104.1215, 476.517, 476.524, 1 and 2 to read as follows:

104.010. DEFINITIONS. — 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual account and interest allowed thereon;

(2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

(3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial tables and interest, is equal in value to a certain amount or other benefit;

(4) "Actuarial tables", the actuarial tables approved and in use by a board at any given time;

(5) "Actuary", the actuary who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who is employed by a board at any given time;

(6) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, this chapter;

(7) "Average compensation", the average compensation of a member for the thirty-six consecutive months of service prior to retirement when the member's compensation was greatest; or if the member is on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of compensation the member would have received may be used, as reported and verified by the employing department; or if the member had less than thirty-six months of service, the average annual compensation paid to the member during the period up to thirty-six months for which the member received creditable service when the member's compensation was the greatest; or if the member is on military leave, the amount of compensation the member would have received may be used as reported and verified by the employing department or, if such amount is not determinable, the amount of the employee's average rate of compensation during the twelve-month period immediately preceding such period of leave, or if shorter, the period of employment immediately preceding such period of leave;

(8) "Beneficiary", any person entitled to or nominated by a member or retiree who may be legally entitled to receive benefits pursuant to this chapter;

(9) "Biennial assembly", the completion of no less than two years of creditable service or creditable prior service by a member of the general assembly;

(10) "Board of trustees", "board", or "trustees", a board of trustees as established for the applicable system pursuant to this chapter;

(11) "Chapter", sections 104.010 to 104.800;

(12) "Compensation":

(a) All salary and wages payable out of any state, federal, trust, or other funds to an employee for personal services performed for a department; but including only amounts for which contributions have been made in accordance with section 104.436, or section 104.070, whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid after the member's termination of employment unless such amounts paid after such termination are a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000, or any other one-time payments made as a result of such payroll system;

(b) All salary and wages which would have been payable out of any state, federal, trust or other funds to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) Effective December 31, 1995, compensation in excess of the limitations set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation

for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

(13) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by a board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(14) "Creditable prior service", the service of an employee which was either rendered prior to the establishment of a system, or prior to the date the employee last became a member of a system, and which is recognized in determining the member's eligibility and for the amount of the member's benefits under a system;

(15) "Creditable service", the sum of membership service and creditable prior service, to the extent such service is standing to a member's credit as provided in this chapter; except that in no case shall more than one day of creditable service or creditable prior service be credited any member for any one calendar day of eligible service credit as provided by law;

(16) "Deferred normal annuity", the annuity payable to any former employee who terminated employment as an employee or otherwise withdrew from service with a vested right to a normal annuity, payable at a future date;

(17) "Department", any department[, institution, board, commission, officer, court, or any agency of the state government receiving state appropriations, including allocated funds from the federal government, and having power to certify payrolls authorizing payments of salary or wages against appropriations made by the federal government or the state legislature from any state fund, or against trusts or allocated funds held by the state treasurer] **or agency of the executive, legislative or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;**

(18) "Disability benefits", benefits paid to any employee while totally disabled as provided in this chapter;

(19) "Early retirement age", a member's attainment of fifty-five years of age and the completion of ten or more years of creditable service, except for uniformed members of the water patrol;

(20) "Employee":

(a) Any elective or appointive officer or person employed by the state who is employed, promoted or transferred by a department into a new or existing position and earns a salary or wage in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, including each member of the general assembly but not including any patient or inmate of any state, charitable, penal or correctional institution. **Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment.** However, persons who are members of the public school retirement system and who are employed by a state agency other than an institution of higher learning shall be deemed employees for purposes of participating in all insurance programs administered by a board established pursuant to section 104.450. This definition shall not exclude any employee as defined in this subdivision who is covered only under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter, the term "employee" shall include:

a. Persons who are currently receiving annuities or other retirement benefits from some other retirement or benefit fund, so long as they are not simultaneously accumulating creditable service in another retirement or benefit system which will be used to determine eligibility for or the amount of a future retirement benefit;

b. Persons who have elected to become or who have been made members of a system pursuant to section 104.342;

(b) Any person who has performed services in the employ of the general assembly or either house thereof, or any employee of any member of the general assembly while acting in the person's official capacity as a member, and whose position does not normally require the person to perform duties during at least one thousand hours per year, with a month of service being any monthly pay period in which the employee was paid for full-time employment for that monthly period;

(c) "Employee" does not include special consultants employed pursuant to section 104.610;

(d) As used in this chapter, the hours governing the definition of employee shall be applied only from August 13, 1988, forward;

(e) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(21) "Employer", a department of the state;

(22) "Executive director", the executive director employed by a board established pursuant to the provisions of this chapter;

(23) "Fiscal year", the period beginning July first in any year and ending June thirtieth the following year;

(24) "Full biennial assembly", the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year;

(25) "Fund", the benefit fund of a system established pursuant to this chapter;

(26) "Interest", interest at such rate as shall be determined and prescribed from time to time by a board;

(27) "Member", as used in sections 104.010 to 104.272 or 104.600 to 104.800 shall mean a member of the highways and transportation employees' and highway patrol retirement system without regard to whether or not the member has been retired. "Member", as used in sections 104.010 and 104.312 to 104.800, shall mean a member of the Missouri state employees' retirement system without regard to whether or not the member has been retired;

(28) "Membership service", the service after becoming a member that is recognized in determining a member's eligibility for and the amount of a member's benefits under a system;

(29) "Military service", all active service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health Service or any women's auxiliary thereof; and service in the Army national guard and Air national guard when engaged in active duty for training, inactive duty training or full-time national guard duty, and service by any other category of persons designated by the President in time of war or emergency;

(30) "Normal annuity", the annuity provided to a member upon retirement at or after the member's normal retirement age;

(31) "Normal retirement age", an employee's attainment of sixty-five years of age and the completion of four years of creditable service or the attainment of age sixty-five years of age and the completion of five years of creditable service by a member who has terminated employment and is entitled to a deferred normal annuity or the member's attainment of age sixty and the completion of fifteen years of creditable service, except that normal retirement age for uniformed members of the highway patrol shall be fifty-five years of age and the completion of four years of creditable service and uniformed employees of the water patrol shall be fifty-five years of age and the completion of four years of creditable service or the attainment of age fifty-five and the completion of five years of creditable service by a member of the water patrol who has terminated employment and is entitled to a deferred normal annuity and members of the general assembly shall be fifty-five years of age and the completion of three full biennial assemblies. Notwithstanding any other provision of law to the contrary, a member of the highways and transportation employees' and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other

provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least fifty years of age;

(32) "Payroll deduction", deductions made from an employee's compensation;

(33) "Prior service credit", the service of an employee rendered prior to the date the employee became a member which service is recognized in determining the member's eligibility for benefits from a system but not in determining the amount of the member's benefit;

(34) "Reduced annuity", an actuarial equivalent of a normal annuity;

(35) "Retiree", a member who is not an employee and who is receiving an annuity from a system pursuant to this chapter;

(36) "System" or "retirement system", the highways and transportation employees' and highway patrol retirement system, as created by sections 104.010 to 104.270, or sections 104.600 to 104.800, or the Missouri state employees' retirement system as created by sections 104.320 to 104.800;

(37) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway patrol who normally appear in uniform;

(38) "Uniformed members of the water patrol", employees of the Missouri state water patrol of the department of public safety who are classified as water patrol officers who have taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those peace officer powers given by the provisions of chapter 306, RSMo;

(39) "Vesting service", the sum of a member's prior service credit and creditable service which is recognized in determining the member's eligibility for benefits under the system.

2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by reference.

104.170. OFFICERS OF BOARD OF TRUSTEES, ELECTION, TERMS, DUTIES — EXECUTIVE DIRECTOR, APPOINTMENT, POWERS AND DUTIES — PROCESS TO BE SERVED ON EXECUTIVE DIRECTOR. — 1. The board shall elect by secret ballot one member as [chairman] **chair** and one member as vice [chairman] **chair** in January of each year. The [chairman] **chair** may not serve more than two consecutive terms beginning after August 13, 1988. The [chairman] **chair** shall preside over meetings of the board and perform such other duties as may be required by action of the board. The vice [chairman] **chair** shall perform the duties of the [chairman] **chair** in the absence of the latter or upon [his] **the chair's** inability or refusal to act.

2. The board shall appoint a full-time executive director, who shall not be compensated for any other duties under the **state** highways and transportation commission. The executive director shall have charge of the offices and records and shall hire such employees that [he] **the executive director** deems necessary subject to the direction of the board. **The executive director and all other employees of the system shall be members of the system and the board shall make contributions to provide the insurance benefits available pursuant to section 104.270 on the same basis as provided for other state employees pursuant to the provisions of section 104.515, and also shall make contributions to provide the retirement benefits on the same basis as provided for other employees pursuant to the provisions of sections 104.090 to 104.260.**

3. Any summons or other writ issued by the courts of the state shall be served upon the **executive** director or, in [his] **the executive director's** absence, on the assistant director.

104.175. LIABILITY INSURANCE COVERAGE AUTHORIZED, STATE HIGHWAYS AND TRANSPORTATION COMMISSION. — **The state highways and transportation commission is authorized, when requested by the highways and transportation employees' and highway patrol retirement system, to provide liability insurance covering the operation of all**

vehicles owned or leased or used by the system. The commission is also authorized, when requested by the system, to provide workers' compensation coverage for the executive director and employees of the system. In the event the commission provides such insurance coverage, the system shall reimburse the commission for all costs of such coverage.

104.312. PENSION, ANNUITY, BENEFIT, RIGHT, AND ALLOWANCE IS MARITAL PROPERTY — DIVISION OF BENEFITS ORDER, REQUIREMENTS — INFORMATION FOR COURTS — REJECTION OF DIVISION OF BENEFITS ORDER — BASIS FOR PAYMENT TO ALTERNATE PAYEE.

— 1. The provisions of subsection 2 of section 104.250, subsection 2 of section 104.540, subsection 2 of section 287.820, RSMo, and section 476.688, RSMo, to the contrary notwithstanding, any pension, annuity, benefit, right, or retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, is marital property and after August 28, 1994, a court of competent jurisdiction may divide the pension, annuity, benefits, rights, and retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, between the parties to any action for dissolution of marriage. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity **or retirement plan** not selected by the member and not normally made available by that system;

(2) Shall not require the applicable retirement system to commence payments until the member submits a valid application for an annuity and the annuity becomes payable in accordance with the application;

(3) Shall identify the monthly amount to be paid to the alternate payee, which shall **be expressed as a percentage and which shall** not exceed fifty percent of the amount of the member's annuity accrued during **all or part of** the time while the member and alternate payee were married; and **which shall be** based on the member's vested annuity on the date of the dissolution of marriage **or an earlier date as specified in the order**, [and the] **which** amount shall be adjusted proportionately if the member's annuity is reduced due to early retirement **and the percentage established shall be applied to the pro rata portion of any lump sum distribution pursuant to subsection 6 of section 104.335, accrued during the time while the member and alternate payee were married;**

(4) Shall not require the payment of an annuity amount to the member and alternate payee which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any benefit formula increases, additional years of service, increased average compensation or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member[.]; except that **on or after September 1, 2001, any** annual benefit [increases] **increase** shall [be applied to the amount received by both the member and the alternate payee] **not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;**

(6) Shall terminate upon the death of either the member or the alternate payee, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address and Social Security number of both the member and the alternate payee, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system established by this chapter shall provide the court having jurisdiction of a dissolution of marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request

from [the court or the parties] **either the court, the member or the member's spouse**, which cites this section and identifies the case number and parties.

3. A system established by this chapter shall have the discretionary authority to reject a division of benefits order for the following reasons:

- (1) The order does not clearly state the rights of the member and the alternate payee;
- (2) The order is inconsistent with any law governing the retirement system.

4. The amount paid to an alternate payee under an order issued pursuant to this section shall be based on what the member would have received had the member elected coverage under the closed plan pursuant to section 104.1015 regardless of the actual election made by the member pursuant to that section; except that any annual benefit increases subject to division shall be based on the actual annual benefit increases received after the retirement plan election.

104.330. STATE EMPLOYEES TO BE MEMBERS — MILITARY SERVICE, EFFECT. — 1. As an incident to his **or her** contract of employment or continued employment, each employee of the state shall become a member of the system on the first day of the first month following the original effective date of sections 104.310 to 104.540, September 1, 1957, and every person thereafter becoming an employee shall become a member at the time of employment. Each employee's membership shall continue as long as the member continues to be an employee or be on leave for military service or training as hereinafter provided; or receive or be eligible to receive an annuity or benefit.

2. [Any military service or training completed prior to December 3, 1974, must be that to which an employee shall have become obligated, either irrespective of the member's consent under the mandatory provisions of law, or as a volunteer while the United States is engaged in actual active armed warfare, if within ninety days after becoming eligible for release from this service obligation, the member shall have reentered the employment of a department, and within the number of months after such reemployment which is equal to the number of months the member was in the service, shall have paid into the fund, in addition to the member's current payroll deductions, the actuarial equivalent, at the time the payments are completed, of all payroll deductions at the salary rate which the member was receiving when the member went on leave and which would have been made if the member had been an employee at this rate continuously up to the time of reentering employment.] **Any member who completes military service or training [completed] on or after December 3, 1974, [must be that to which the employee's reemployment rights were guaranteed] shall receive creditable service and salary credit mandated by federal law under the Vietnam Era Veteran's Readjustment Act of 1974 and the Uniformed Services Employment and Reemployment Rights Act of 1994 or any successor thereto, [if the member shall have reentered the employment of a department after the member's release from military service or training within the time prescribed by such law] or as otherwise provided under federal or state law.**

104.339. CREDITABLE PRIOR SERVICE, MEMBERS ENTITLED TO. — 1. Any employee who became a member of the system, on the first day of the first month following the original effective date of sections 104.310 to 104.540, September 1, 1957, shall be given creditable prior service with the state. All such creditable prior service must be established to the satisfaction of the board.

2. [Any person who, on August 29, 1959, was an employee of the state government and a member of either the transportation department employees' and highway patrol retirement system or the Missouri state employees' retirement system and who, whether or not he became a member of either system on the original effective date of sections 104.310 to 104.540, September 1, 1957, had been since January 7, 1959, continuously in the employ of the state government in positions which would on August 29, 1959, have come under one or the other of the retirement systems, is entitled to credit for all of his prior service with the state whether it

was as an employee of the transportation department, highway patrol or any other department as the term is defined in section 104.010.

3.] Any member of the system employed on or after August 13, 1988, and who served as an employee prior to September 1, 1957, but was not an employee on that date, shall be entitled to the creditable prior service that such employee would have been entitled to had such employee become a member of the retirement system on the date of its inception[, if such employee has or attains one year of continuous membership service].

104.345. CIRCUIT CLERKS ENTITLED TO PRIOR SERVICE CREDIT, WHEN — CERTAIN CIRCUIT CLERKS TO BE APPOINTED CONSULTANTS, DUTIES, COMPENSATION TO BE CREDITABLE SERVICE, WHEN — CLERKS ENTITLED TO REFUND OF CONTRIBUTION, PROCEDURE, ALSO ENTITLED TO PRIOR SERVICE CREDIT. — 1. Any circuit clerk holding office or employment as such on or after August 28, 1989, for service rendered as an employee of any county or other political subdivision for the purposes of performing duties for the judicial system, is entitled to creditable prior service [under] **pursuant to** the provisions of this chapter in the Missouri state employees' retirement system, provided such period of service has not been included for purposes of qualification for any other retirement system.

2. Any member who was a circuit clerk on July 1, 1980, and whose employment as a circuit clerk terminated prior to October 1, 1989, upon application to the board shall be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement for the remainder of the person's life. Upon request of the board, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation, the consultant shall receive creditable service for service rendered as a circuit clerk, deputy circuit clerk or division clerk, if:

(1) The member does not receive credit for the same period of service under more than one retirement system;

(2) The person made application to the board for such creditable prior service within ninety days of October 1, 1989; and

(3) The person establishes proof of such service to the satisfaction of the board.

Such person shall be a member of the Missouri state employees' retirement system and be entitled to a normal annuity or to a deferred normal annuity, based on the person's creditable service and the law in effect at the time service as a circuit clerk was terminated.

3. Notwithstanding any provision of law to the contrary, any person who is an employee on August 28, 1990, who was a circuit clerk, deputy circuit clerk or division clerk on June 30, 1981, employed by a county which participated in the local government employees' retirement system [under] **pursuant to** sections 70.600 to 70.755, RSMo, or which paid to the Missouri state employees' retirement system to actuarially fund the creditable prior service of such clerk, and such person elected to receive creditable prior service under this system by waiving rights to the person's accumulated contributions made or accrued while such person was a county employee or who made payment to the county as reimbursement for the costs incurred by the county to actuarially fund the creditable prior service for such person which were received by this system [under] **pursuant to** the provisions of this section in effect when such person became a member, upon written application filed with the board, shall be eligible to receive a refund of such accumulated contributions or payment amount. Members receiving such a refund shall not forfeit any service presently credited the member under this system but in no event shall a member receive credit for the same period of service under more than one retirement system.

4. Any actively employed member of the Missouri state employees' retirement system on or after August 28, 2000, shall be entitled to creditable prior service for service rendered as a circuit clerk, deputy circuit clerk or division clerk, if:

(1) The service had not become vested in a county or city retirement plan;

(2) The person made application to the board for such creditable prior service; and

(3) The person establishes proof of such service to the satisfaction of the board **including proof that the person worked in a position that normally required at least one thousand hours of service per year for service after October 1, 1984, or one thousand five hundred hours of service per year for service prior to October 1, 1984.**

104.372. GENERAL ASSEMBLY MEMBERS AND ELECTIVE STATE OFFICERS, SURVIVOR'S INCOME PAYMENTS, WHEN, AMOUNT — DEATH BEFORE RETIREMENT SURVIVOR'S BENEFIT — CREDITABLE PRIOR SERVICE FOR CERTAIN TEACHERS EMPLOYED BY STATE — SURVIVING SPOUSE, SPECIAL CONSULTANT — PAYMENTS IN LIEU OF OTHER PROVISIONS, WHEN. — 1. (1) In the event a person who served as a member of the general assembly or in an elective state office on or after September 1, 1976, and who retired after September 1, 1976, dies, a survivor's income in an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death shall be paid in monthly installments to such deceased retired member's surviving spouse; provided such surviving spouse was married to the deceased retired member of the general assembly or elected official on the date of the member's death; or if there is no surviving spouse eligible to receive such survivor's income, then such survivor's income shall be payable to any children under the age of twenty-one of the deceased member of the general assembly or elective official in equal shares in a total amount equal to such survivor's income that would otherwise have been paid to the surviving spouse until the children reach twenty-one years of age. The benefits shall be funded as provided in section 104.436; or

(2) Upon the death of a person who served as a member of the general assembly or in an elective state office on or after September 1, 1976, and who retired pursuant to the provisions of this chapter on or after September 1, 1976, and who terminated employment before August 28, 1988, such deceased retired member's surviving spouse, who was married to the deceased retired member on the date of the member's death, may apply to the board of trustees and shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the surviving spouse's life, and upon request of the board shall give opinions, and be available to give opinions in writing, or orally, in response to such requests. As compensation for such services, beginning the first of the month following application, such surviving spouse shall receive monthly an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death.

2. If a member of the general assembly who has served in at least three full biennial assemblies dies before retirement, pursuant to the provisions of sections 104.312 to 104.801, a survivor's benefit shall be paid in an amount equal to fifty percent of the member's accrued annuity calculated as if the member were of normal retirement age as of the member's death. The survivor's benefit shall be paid in monthly installments to such deceased member's surviving spouse; provided such surviving spouse was married to the deceased member of the general assembly on the date of the member's death; or if there is no surviving spouse eligible to receive such survivor's benefit, such survivor's benefit shall be payable to any children under the age of twenty-one of the deceased member of the general assembly in equal shares in a total amount equal to such survivor's benefit that would otherwise have been paid to the surviving spouse until the children reach twenty-one years of age.

3. In the event a person who has held one or more statewide state elective offices for a total of at least twelve years, and whose retirement benefits have been calculated and are being paid pursuant to the provisions of section 104.371, dies, a survivor's benefit in an amount equal to fifty percent of the benefits being paid the member pursuant to section 104.371 shall be paid to the member's surviving spouse. The survivor's benefits shall be paid in the manner provided in section 104.371.

4. Every member of the state employees' retirement system who had previous state employment by a state agency by virtue of which the person was a member of the public school

retirement system of Missouri and has previously withdrawn the person's employee contribution to the public school retirement system shall upon request if qualified pursuant to the provisions of this subsection receive creditable prior service in the state employees' retirement system for such service notwithstanding any other provisions of law. The public school retirement system shall pay to the state employees' retirement system an amount equal to the contribution paid to the public school retirement system on behalf of the employee by the employee's employer, and the commissioner of administration shall pay an equal amount to the state employees' retirement system from funds appropriated from the general revenue fund for such purpose. In no event shall any person receive credit for the same period of service under more than one retirement system.

5. Upon the death of a person who served as a member of the general assembly or in an elective state office before September 1, 1976, and who retired and chose a normal annuity pursuant to the provisions of this chapter, such deceased retired member's surviving spouse, who was married to the member on the date of the member's death, may apply to the board of trustees and shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters for the remainder of the surviving spouse's life, and upon request of the board shall give opinions, and be available to give opinions in writing, or orally, in response to such requests. As compensation for such services, beginning the first of the month following application, such surviving spouse shall receive monthly an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death.

6. Survivor benefits shall be paid pursuant to section 104.420 in lieu of any other provisions of this section to the contrary if the member of the general assembly or statewide elected official:

- (1) Dies on or after August 28, 2001;
- (2) Had a vested right to an annuity; and
- (3) Was not receiving an annuity.

7. Survivor benefits shall be paid pursuant to section 104.395 in lieu of any other provisions of this section to the contrary if the member of the general assembly or statewide elected official elects a survivor benefit option pursuant to section 104.395, and dies on or after August 28, 2001.

104.374. STATE EMPLOYEE'S NORMAL ANNUITY, COMPUTATION — ABSENCES COUNTED AS MEMBERSHIP SERVICE, WHEN — EMPLOYEES AND GENERAL ASSEMBLY MEMBERS CONTINUING TO SERVE, COST-OF-LIVING INCREASES ON RETIREMENT OR DEATH.

— 1. The normal annuity of a member, other than a member of the general assembly or a member who served in an elective state office, shall be an amount equal to one and six-tenths percent of the average compensation of the member multiplied by the number of years of creditable service of the member. Years of membership service and twelfths of a year are to be used in calculating any annuity. Absences for sickness and injury of less than twelve months [or for military service or training under subsection 2 of section 104.330] shall be counted as years of membership service.

2. In addition to the amount determined pursuant to subsection 1 of this section, the normal annuity of a uniformed member of the water patrol shall be increased by thirty-three and one-third percent of the benefit.

3. Employees who are fully vested at the age of sixty-five years and who continue to be employed by an agency covered under the system or members of the general assembly who serve in the general assembly after the age of sixty-five years shall have added to their normal annuity when they retire or die an amount equal to the total of all annual cost-of-living increases that the retired members of the system received during the years between when the employee or member of the general assembly reached sixty-five years of age and the year that the employee or member of the general assembly terminated employment or died. In no event shall the total

increase in compensation granted under this subsection and subsection 2 of section 104.612 exceed sixty-five percent of the person's normal annuity calculated at the time of retirement or death.

104.380. RETIRED MEMBERS ELECTED TO STATE OFFICE, EFFECT OF — REEMPLOYMENT OF RETIRED MEMBERS, EFFECT OF. — If a retired member is elected to any state office or is appointed to any state office or is employed by a department [in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, the member shall not receive an annuity for any month or part of a month for which the member serves as an officer or employee, but the member shall be considered to be a new employee with no previous creditable service and must accrue creditable service in order to receive any additional annuity. Any retired member who again becomes an employee and who accrues additional creditable service and later retires shall receive an additional amount of monthly annuity calculated to include only the creditable service and the average compensation earned by the member since such employment or creditable service earned as a member of the general assembly. Years of membership service and twelfths of a year are to be used in calculating any additional annuity except for creditable service earned as a member of the general assembly, and such additional annuity shall be based on the type of service accrued. In either event, the original annuity and the additional annuity, if any, shall be paid commencing with the end of the first month after the month during which the member's term of office has been completed, or the member's employment terminated. If a retired member is employed by a department in a position that does not normally require the person to perform duties during at least one thousand hours per year, the member shall not be considered an employee as defined pursuant to section 104.010.] **and works more than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retired member shall not receive an annuity or additional creditable service for any month or part of a month for which the retired member is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.490. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter. The provisions of this section shall apply to all retired members employed on or after September 1, 2001, regardless of when the retired member was first employed. Any person who is an employee on or after August 28, 2001, retires and is subsequently employed in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the system.**

104.395. OPTIONS AVAILABLE TO MEMBERS IN LIEU OF NORMAL ANNUITY — SPOUSE AS DESIGNATED BENEFICIARY, WHEN — STATEMENT THAT SPOUSE AWARE OF RETIREMENT PLAN ELECTED — REVERSION OF AMOUNT OF BENEFIT, CONDITIONS — SPECIAL CONSULTANT, COMPENSATION — ELECTION TO BE MADE, WHEN. — 1. In lieu of the normal annuity otherwise payable to a member pursuant to section 104.335, **104.370, 104.371**, 104.374 or 104.400, and prior to the last business day of the month before the annuity starting date pursuant to section 104.401, a member shall elect whether or not to have such member's normal annuity reduced as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after such annuity starting date shall be made the month following the receipt by the system of such election, and further provided, that if such person dies after such annuity starting date but before making such election, no benefits shall be paid except as required pursuant to section 104.420:

Option 1. An actuarial reduction approved by the board of the member's annuity in reduced monthly payments for life during retirement with the provision that upon the member's death the reduced annuity at the date of the member's death shall be continued throughout the life of, and

be paid to, the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement or as otherwise provided [under] **pursuant to** subsection 5 of this section. Such annuity shall be reduced in the same manner as an annuity under option 2 as in effect immediately prior to August 28, 1997. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 2. The member's normal annuity in regular monthly payments for life during the member's retirement with the provision that upon the member's death a survivor's benefit equal to one-half the member's annuity at the date of the member's death shall be paid to the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement or as otherwise provided [under] **pursuant to** subsection 5 of this section, in regular monthly payments for life. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 3. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received one hundred twenty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the one hundred twenty months' period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such one hundred twenty months' period shall be paid to the retirant's estate. If such beneficiary dies after the member's date of death but before having received the remainder of the one hundred twenty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of such one hundred twenty-month period shall be paid to the beneficiary's estate; or

Option 4. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received sixty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the sixty months' period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there be no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such sixty months' period shall be paid to the retirant's estate. If such beneficiary dies after the member's date of death but before having received the remainder of the sixty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of the sixty-month period shall be paid to the beneficiary's estate.

2. Effective July 1, 2000, if a member is married as of the annuity starting date to a person who has been the member's spouse, the member's annuity shall be paid pursuant to the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the member's choice, with the spouse as the member's designated beneficiary unless the spouse consents in writing to the member electing another available form of payment.

3. For members who retire on or after August 28, 1995, in the event such member elected a joint and survivor option [under] **pursuant to** the provisions of this section and the member's eligible spouse or eligible former spouse precedes the member in death, the member's annuity shall revert effective the first of the month following the death of the spouse or eligible former spouse regardless of when the board receives the member's written application for the benefit provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for early retirement if applicable; such benefit shall include any increases the member would have received since the date of retirement had the member elected a normal annuity.

4. Effective on or after August 28, 1995, any retired member who had elected a joint and survivor option and whose spouse or eligible former spouse precedes or preceded the member

in death shall upon application to the board be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As a special consultant pursuant to the provisions of this section, the member's reduced annuity shall revert to a normal annuity as adjusted for early retirement, if applicable, effective the first of the month following the death of the spouse or eligible former spouse or August 28, 1995, whichever is later, regardless of when the board receives the member's written application; such annuity shall include any increases the retired member would have received since the date of retirement had the member elected a normal annuity.

5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the date retirement benefits are initiated if the member makes such election within one year from the date of marriage or July 1, 2000, whichever is later, under any of the following circumstances:

(1) The member elected to receive a normal annuity and was not eligible to elect option 1 or 2 on the date retirement benefits were initiated; or

(2) The member's annuity reverted to a normal annuity pursuant to subsection 3 or 4 of this section and the member remarried.

6. Any person who terminates employment or retires prior to July 1, 2000, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters, and for such services shall be eligible to elect to receive the benefits described in subsection 5 of this section.

7. Effective September 1, 2001, the retirement application of any member who fails to make an election pursuant to subsection 1 of this section within ninety days of the annuity starting date contained in such retirement application shall be nullified. Any member whose retirement application is nullified shall not receive retirement benefits until the member files a new application for retirement pursuant to section 104.401 and makes the election pursuant to subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

104.401. RETIREMENT REQUIREMENTS AND PROCEDURE, ANNUITY OR DEFERRED NORMAL ANNUITY, PAYMENT TO COMMENCE WHEN — TEMPORARY WAIVER OF RIGHT TO RECEIVE, EFFECT, LIMITATION. — 1. Any member may retire with the annuity provided for in section 104.335, 104.370, 104.371, 104.374 or 104.400 upon the member's written application to the board designating the annuity starting date which shall be the first day of the month with respect to which an amount is paid as annuity; except that at the time of the annuity starting date, the member must have attained the normal retirement age or meet the eligibility requirements of subsection 2 of section 104.400 and must have sufficient years of creditable service. The annuity starting date shall **not** be [not less than thirty days nor more than ninety days subsequent to the execution and filing of such application] **earlier than the first day of the second month following the month of the execution and filing of such application nor later than the first day of the fourth month following the month of the execution and filing of such application.** The annuity shall commence in the month of the annuity starting date specified by the member in such application. The payment of the monthly service retirement annuity shall be made by the last day of each month, providing all documentation required pursuant to section 104.395 for the calculation and payment of the benefits is received by the board. The member shall designate a beneficiary to receive any final monthly payment due after the death of the member if no survivor annuity is payable.

2. Nothing in sections 104.010 and 104.320 to 104.800 shall be construed as prohibiting a member from waiving the member's right to receive the member's monthly annuity for a period of time that the member chooses. However, the waiver may not extend beyond the age permitted by Section 401(a)(9) of the Internal Revenue Code. The waiver shall be final as to benefits waived.

104.420. DEATH BEFORE RETIREMENT, MEMBER OR DISABLED MEMBER — SURVIVING SPOUSE TO RECEIVE BENEFITS — IF NO QUALIFYING SURVIVING SPOUSE, CHILDREN'S BENEFITS. — 1. Unless otherwise provided by law, if a member or disabled member [has five or more years of vesting service and] **who has a vested right to a normal annuity** dies prior to retirement, regardless of the age of the member at the time of death, the member's or disabled member's surviving spouse, to whom the member or disabled member was married on the date of the member's death, if any, shall receive the reduced survivorship benefits provided in option 1 of section 104.395 calculated as if the member were of normal retirement age and had retired as of the date of the member's death and had elected option 1.

2. If there is no eligible surviving spouse, **or when a spouse annuity has ceased to be payable**, the member's or disabled member's eligible surviving children under twenty-one years of age shall receive monthly, in equal shares, an amount equal to [one-half] **eighty percent** of the member's or disabled member's accrued annuity calculated as if the member or disabled member were of a normal retirement age and retired as of the date of death. Benefits otherwise payable to a child under eighteen years of age shall be payable to the surviving parent as natural guardian of such child if such parent has custody or assumes custody of such minor child, or to the legal guardian of such child, until such child attains age eighteen; thereafter, the benefit may be paid to the child until age twenty-one; **provided the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction.**

3. No benefit is payable pursuant to this section if no eligible surviving spouse or children under twenty-one years of age survive the member or disabled member. Benefits cease pursuant to this section when there is no eligible surviving beneficiary through either death of the eligible surviving spouse or through either death or the attainment of twenty-one years of age by the eligible surviving children. If the member's or disabled member's surviving children are receiving equal shares of the benefit described in subsection 2 of this section, and one or more of such children become ineligible by reason of death or the attainment of twenty-one years of age, the benefit shall be reallocated so that the remaining eligible children receive equal shares of the total benefit as described in subsection 2 of this section.

4. For the purpose of computing the amount of an annuity payable pursuant to this section, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of the member's actual performance of duty as an employee, then the minimum annuity to such member's surviving spouse or, if no surviving spouse benefits are payable, the minimum annuity that shall be divided among and paid to such member's surviving children shall be fifty percent of the member's final average compensation; **except that for members of the general assembly and statewide elected officials with twelve or more years of service, the monthly rate of compensation in effect on the date of death shall be used in lieu of final average compensation.** The vesting service requirement of subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

104.450. BOARD OF TRUSTEES, MEMBERSHIP OF — APPOINTED MEMBERS AND ELECTED MEMBERS, HOW CHOSEN. — The board of trustees shall consist of the state treasurer, the commissioner of administration, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, two members appointed by the governor [for a four-year term during the governor's term of office], and three members who are members of the system, one of whom shall be a retiree elected by a plurality vote of retired members and two of whom shall be employees, elected by a plurality vote of the members of the system not retired for four-year terms. The board so constituted shall determine the procedures for nomination and election of the elective board members. The first two trustees designated above shall serve as trustees during their respective terms of office [and]; the legislative members shall serve as trustees [during their terms as members of the general assembly] **until such time as they resign, are no longer members of**

the general assembly, or are replaced by new appointments; and the members appointed by the governor shall serve as trustees until such time as they resign or are replaced by new appointments. Any vacancies occurring in the office of trustees shall be filled in the same manner as the office was filled previously except that vacancies occurring in the offices of the elected board members may be filled by the board of trustees until the next regularly scheduled election.

104.515. INSURANCE AND DISABILITY BENEFITS TO BE KEPT IN SEPARATE ACCOUNTS — STATE'S CONTRIBUTION, AMOUNT, CONTRIBUTION TO BE MADE FROM HIGHWAY FUNDS FOR CERTAIN EMPLOYEES, WHEN — EMPLOYEES AND FAMILIES, WHO ARE COVERED FOR MEDICAL INSURANCE — PREMIUM COLLECTION FOR AMOUNT NOT COVERED BY STATE — SPECIAL CONSULTANTS, DUTIES, COMPENSATION, BENEFITS. — 1. Separate accounts for medical, life insurance and disability benefits provided [under] **pursuant to** sections 104.517 and 104.518 shall be established as part of the fund. The funds, property and return on investments of the separate account shall not be commingled with any other funds, property and investment return of the system. All benefits and premiums are paid solely from the separate account for medical, life insurance and disability benefits provided [under] **pursuant to** this section.

2. The state shall contribute an amount as appropriated by law and approved by the governor per month [per employee for medical benefits and, based on competitive bids, up to five dollars per month per employee] for **medical benefits, life insurance and long-term disability benefits as provided pursuant to sections 104.515, 104.517 and 104.518. Such amounts shall include the cost of providing** life insurance benefits for each active employee who is a member of the Missouri state employees' retirement system, a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, a member of the retirement system established by sections 287.812 to 287.855, RSMo, the judicial retirement system, each legislator and official holding an elective state office, members not on payroll status who are receiving workers' compensation benefits, and if the state highways and transportation commission so elects, those employees who are members of the state transportation department employees' and highway patrol retirement system; if the state highways and transportation commission so elects to join the plan, the state shall contribute an amount as appropriated by law for medical benefits for those employees who are members of the transportation department employees' and highway patrol retirement system; an additional amount equal to the amount required, based on competitive bidding or determined actuarially, to fund the retired members' death benefit or life insurance benefit, or both, provided in subsection 4 of this section and the disability benefits provided in section 104.518. This amount shall be reported as a separate item in the monthly certification of required contributions which the commissioner of administration submits to the state treasurer and shall be deposited to the separate account for medical, life insurance and disability benefits. All contributions made on behalf of members of the state transportation department employees' and highway patrol retirement system shall be made from highway funds. If the highways and transportation commission so elects, the spouses and unemancipated children under twenty-three years of age of employees who are members of the state transportation department employees' and highway patrol retirement system shall be able to participate in the program of insurance benefits to cover medical expenses [under] **pursuant to** the provisions of subsection 3 of this section.

3. The board shall determine the premium amounts required for participating employees. The premium amounts shall be the amount, which, together with the state's contribution, is required to fund the benefits provided, taking into account necessary actuarial reserves. Separate premiums shall be established for employees' benefits and a separate premium or schedule of premiums shall be established for benefits for spouses and unemancipated children under twenty-three years of age of participating employees. The employee's premiums for spouse and children benefits shall be established to cover that portion of the cost of such benefits which is not paid for by contributions by the state. All such premium amounts shall be paid to the board

of trustees at the time that each employee's wages or salary would normally be paid. The premium amounts so remitted will be placed in the separate account for medical, life insurance and disability benefits. In lieu of the availability of premium deductions, the board may establish alternative methods for the collection of premium amounts.

4. Each special consultant eligible for life benefits employed by a board of trustees of a retirement system as provided in section 104.610 who is a member of the Missouri state life insurance plan or Missouri state transportation department and Missouri state highway patrol life insurance plan shall, in addition to duties prescribed in section 104.610 or any other law, and upon request of the board of trustees, give the board, orally or in writing, a short detailed statement on life insurance and death benefit problems affecting retirees. As compensation for the extra duty imposed by this subsection, any special consultant as defined above, other than a special consultant entitled to a deferred normal annuity [under] **pursuant to** section 104.035 or 104.335, who retires on or after September 28, 1985, shall receive as a part of compensation for these extra duties, a death benefit of five thousand dollars. In addition, each special consultant who is a member of the transportation department employees' and highway patrol retirement system medical insurance plan shall also provide the board, upon request of the board, orally or in writing, a short detailed statement on physical, medical and health problems affecting retirees. As compensation for this extra duty, each special consultant as defined above shall receive, in addition to all other compensation provided by law, nine dollars, or an amount equivalent to that provided to other special consultants [under] **pursuant to** the provisions of section 103.115, RSMo. In addition, any special consultant as defined in section 287.820, RSMo, or section 476.601, RSMo, who terminates employment and immediately retires on or after August 28, 1995, shall receive as a part of compensation for these duties, a death benefit of five thousand dollars.

5. Any former employee who is receiving disability income benefits from the Missouri state employees' retirement system or the transportation department employees' and highway patrol retirement system shall, upon application with the board of trustees of the Missouri consolidated health care plan or the transportation department employees and highway patrol medical plan, be made, constituted, appointed and employed by the respective board as a special consultant on the problems of the health of disability income recipients and, upon request of the board of trustees of each medical plan, give the board, orally or in writing, a short detailed statement of physical, medical and health problems affecting disability income recipients. As compensation for the extra duty imposed by this subsection, each such special consultant as defined in this subsection may receive, in addition to all other compensation provided by law, an amount contributed toward medical benefits coverage provided by the Missouri consolidated health care plan or the transportation employees and highway patrol medical plan pursuant to appropriations.

104.518. DISABILITY INCOME BENEFITS, EMPLOYEES COVERED — CERTAIN MEMBERS OF WATER PATROL ELIGIBLE. — **1.** The board shall provide or contract, or both, for disability income benefits for employees [under] **pursuant to** sections 104.320 to 104.540, and persons covered by the provisions of sections 287.812 to 287.855, RSMo, and an employee covered [under] **pursuant to** the provisions of subdivision (4) of subsection 1 of section 476.515, RSMo, as follows:

(1) Members of the water patrol who qualify for receiving benefits [under] **pursuant to** subsection 1 of section 104.410 are not eligible for benefits [under] **pursuant to** this section. Members of the water patrol who do not qualify for receiving benefits [under] **pursuant to** subsection 1 of section 104.410 are eligible for benefits [under] **pursuant to** this section;

(2) Effective January 1, 1986, employees other than members of the water patrol who qualify for receiving benefits [under] **pursuant to** subsection 1 of section 104.410 shall be eligible for coverage on the first of the month following the date of employment;

(3) Definitions of disability and other rules and procedures necessary for the operation and administration of the disability benefit shall be established by the board **provided that such**

definitions, rules and procedures may be established in any contract between the board and any insurer or service organization to provide the disability benefits provided for pursuant to this section or in any policy issued to the board by such insurer or service organization;

(4) An employee may elect to waive the receipt of the disability benefit provided for [under] pursuant to this section at any time.

2. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:

(1) The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any member who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence;

(3) The board and the system shall not be liable for the disability benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.

104.530. ACTIONS BY AND AGAINST SYSTEM — PROCESS, HOW SERVED — VENUE. — The Missouri state employees' retirement system may sue and be sued in its official name, but its officers and employees shall not be personally liable for acts of the system. **The board may indemnify, protect, defend and hold harmless the trustees, officers and employees of the system against all claims and suits for negligent or wrongful acts alleged to have been committed in the scope of their service or employment or under the direction of the trustees provided that the trustees, officers and employees of the system shall not be indemnified for willful misconduct or gross negligence. The board is authorized to insure against loss or liability of the trustees, officers and employees of the system that may result from claims and suits for negligent or wrongful acts alleged to have been committed in the scope of their service or employment or under the direction of the trustees. This insurance shall be carried through a company that is licensed to write such coverage in this state.** The service of all legal process and of all notices which may be required to be in writing, whether in legal proceedings or otherwise, shall be made on the executive director or in his or her absence, on the executive director's designee at his or her office. All suits or proceedings directly or indirectly against the system shall be brought in Cole County, except that suits or proceedings involving payment of disability benefits may be brought, at the election of the beneficiary, in the county of residence of the beneficiary.

[104.600. SERVICE CREDIT RIGHTS OF EMPLOYEE HAVING WORKED FOR BOTH TRANSPORTATION DEPARTMENT AND OTHER STATE AGENCY. — 1. A member of either the transportation department employees' and highway patrol retirement system, or the state employees' retirement system, who leaves his employment and within one month becomes a member of the other system may transfer his accumulated contributions from the one system to the other system. In such event, whether contributions have been made or not, if there are no accumulated contributions for all or any part of the prior service under the member's first employment, he shall nevertheless receive credit for all time served as a member of the prior system. Credit for prior service shall include all prior service credit which has been given by the department from which the member shall have transferred.

2. The board of trustees of each of the retirement systems shall prescribe the rules and regulations necessary to carry out the purpose of this section.]

104.601. YEARS OF SERVICE TO INCLUDE UNUSED ACCUMULATED SICK LEAVE, WHEN — CREDITED SICK LEAVE NOT COUNTED FOR VESTING PURPOSES — APPLICABLE ALSO TO TEACHERS' AND SCHOOL EMPLOYEES' RETIREMENT SYSTEM. — Any member retiring [under] **pursuant to** the provisions of this chapter or any member retiring [under] **pursuant to** provisions of chapter 169, RSMo, who is a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, after working continuously until reaching retirement age, shall be credited with all his **or her** unused sick leave as certified by his **or her** employing agency. When calculating years of service, each member shall be entitled to one-twelfth of a year of creditable service for each [twenty-one days] **one hundred sixty-eight hours** of unused accumulated sick leave earned by [him] **the member**. The rate of accrual of sick leave for purposes of computing years of service as this section applies to legislative, executive and judicial employees shall be consistent with the rate of accrual as specified by regulations of the personnel advisory board pursuant to section 36.350, RSMo. Nothing under this section shall allow a member to vest in the retirement system by using such credited sick leave to reach the time of vesting.

104.602. CREDITABLE SERVICE NOT PREVIOUSLY CREDITED TO MEMBERS OF EITHER SYSTEM TO BE CREDITED, WHEN — DUPLICATE CREDIT PROHIBITED — DEATH OF A MEMBER PRIOR TO EXERCISE OF TRANSFER RIGHTS, RIGHTS OF SURVIVOR. — 1. Any [employee] **member** as defined in section 104.010 [who, on or after August 13, 1988, has or accumulates one year of continuous service] may elect **prior to retirement** to receive creditable service with the system of which he or she is a current member equal to all creditable service **or any forfeited service** performed for a department covered by the other system. In no event shall a member under either system established pursuant to this chapter receive credit in more than one system for the same period of service.

2. If a member dies before retirement and prior to exercising transfer rights pursuant to the provisions of this section, the survivor may elect to receive survivor benefits that shall be computed as if the member had in fact exercised the member's transfer rights to produce the most advantageous benefit possible. In this instance, the benefit shall be paid by the system that provides the most advantageous benefit. If there is no advantage in one system or the other after the transfer of creditable service, the benefit shall be paid by the system that the member last accrued service under prior to the date of the death of the member.

104.625. ANNUITIES AND LUMP SUM PAYMENTS, WHEN, DETERMINATION OF AMOUNT. — **Effective January 1, 2002, any member retiring pursuant to the provisions of sections 104.010 to 104.801, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond normal retirement age, may elect to receive an annuity and lump sum payment or payments, determined as follows:**

(1) A retroactive starting date shall be established which shall be the later of the date when a normal annuity would have first been payable had the member retired at that time or five years before the annuity starting date, which shall be the first day of the month with respect to which an amount is paid as annuity pursuant to this section;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions otherwise applicable under the law, with the exception that it shall be the amount which would have been payable had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this section, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity

starting date had the member actually retired on the retroactive starting date and received a normal annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; and

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.312 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered creditable service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order.

104.1003. DEFINITIONS. — Unless a different meaning is plainly required by the context, the following words and phrases as used in sections 104.1003 to 104.1093 shall mean:

(1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

(2) "Actuary", an actuary who is experienced in retirement plan financing and who is either a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974;

(3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds provided for in, or authorized by, sections 104.1003 to 104.1093;

(4) "Annuity starting date" means the first day of the first month with respect to which an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;

(5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;

(6) "Board of trustees", "board", or "trustees", a governing body or bodies established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

(7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become a member of the closed plan, but the closed plan shall continue to function for the benefit of persons covered by and remaining in the closed plan and their beneficiaries;

(8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by the board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(9) "Credited service", the total credited service to a member's credit as provided in sections 104.1003 to 104.1093;

(10) "Department", any department or agency of the executive, legislative, or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system [under] **pursuant to** this chapter as otherwise provided by law;

(11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and the completion of at least five years of credited service;

(12) "Effective date", July 1, 2000;

(13) "Employee" shall be any person who is employed by a department and is paid a salary or wage by a department in a position normally requiring the performance of duties of not less than one thousand hours per year, provided:

(a) The term "employee" shall not include any patient or inmate of any state, charitable, penal or correctional institution, or any person who is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

(b) The term "employee" shall be modified as provided by other provisions of sections 104.1003 to 104.1093;

(c) **The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;**

(d) **Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment;**

(14) "Employer", a department;

(15) "Executive director", the executive director employed by a board established [under] **pursuant to** the provisions of sections 104.1003 to 104.1093;

(16) "Final average pay", the average pay of a member for the thirty-six full consecutive months of service before termination of employment when the member's pay was greatest; or if the member was on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of pay the member would have received but for such leave of absence as reported and verified by the employing department; or if the member was employed for less than thirty-six months, the average monthly pay of a member during the period for which the member was employed;

(17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to 104.1093;

(18) "Investment return", "interest", rates as shall be determined and prescribed from time to time by a board;

(19) "Member", a person who is included in the membership of the system, as set forth in section 104.1009;

(20) "Normal retirement eligibility", a member's attainment of at least sixty-two years of age and the completion of at least five or more years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provisions of section 104.080, the mandatory retirement age and completion of five years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty;

(21) "Pay" shall include:

(a) All salary and wages payable to an employee for personal services performed for a department; but excluding:

a. Any amounts paid after an employee's employment is terminated, unless the payment is made as a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000;

b. Any amounts paid upon termination of employment for unused annual leave or unused sick leave; [and]

c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations; **and**

d. Any nonrecurring single sum payments;

(b) All salary and wages which would have been payable to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) All salary and wages which would have been payable to an employee on a medical leave due to employee illness, as reported and verified by the employing department;

(d) For purposes of members of the general assembly, pay shall be the annual salary provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

(22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the person's employment record;

(23) "State", the state of Missouri;

(24) "System" or "retirement system", the Missouri state employees' retirement system or the transportation department and highway patrol retirement system, as the case may be;

(25) "Vested former member", a person entitled to receive a deferred annuity pursuant to section 104.1036;

(26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

104.1021. CREDITED SERVICE DETERMINED BY BOARD — CALCULATION. — 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the year 2000 plan, or becomes a vested former member at the time of termination the member's or former member's unused sick leave as certified by the member's employing department for which the member has not been paid will be converted to credited service at the time of application for retirement benefits. The member shall receive one-twelfth of a year of credited service for each one hundred and sixty-eight hours of such unused sick leave. Such credited service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, credited service means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service [under] **pursuant to** this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased, and an affidavit so stating is filed by the member with the year 2000 plan along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be effected by the member paying to the system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election [under] **pursuant to** this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates employment shall have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service pursuant to the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created pursuant to this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section shall be added to the credited service in the first position of employment held as a member of the system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be added to the credited service in the position of employment held at the time the member completes the purchase or transfer pursuant to such section.

11. [A member may not use credited or creditable service that is purchased by the member to meet] **A member may not purchase any credited service described in this section unless the member has met** the five-year minimum service requirement as provided in subdivisions (11) and (20) of section 104.1003, the two full biennial assemblies minimum service requirement as provided in section 104.1084, or the four-year minimum service requirement as provided in section 104.1084.

104.1024. RETIREMENT, APPLICATION — ANNUITY PAYMENTS, HOW PAID, AMOUNT — ELECTION TO RECEIVE ANNUITY OR LUMP SUM PAYMENT FOR CERTAIN EMPLOYEES, DETERMINATION OF AMOUNT. — 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall **not** be [not less than thirty days nor more than ninety days subsequent to] **earlier than the first day of the second month following the month of the execution and filing of the member's application for retirement nor later than the first day of the fourth month following the month of the execution and filing of the member's application for retirement.**

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's full years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least fifty years but less than sixty-two years, or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provision of section 104.080, the mandatory retirement age and completion of five years of credited service, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following

events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced Social Security retirement benefits.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

6. Effective January 1, 2002, any member, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond the date of normal retirement eligibility, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be the later of the first day of retirement eligibility or five years before the annuity starting date;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions of this section, with the exception that it shall be the amount which would have been payable at the annuity starting date had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this subsection, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a life annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; and

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.1051 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered credited service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order.

104.1027. OPTIONS FOR ELECTION OF ANNUITY REDUCTION — SPOUSE'S BENEFITS. —

1. Prior to the last business day of the month before the annuity starting date, a member or a vested former member shall elect whether or not to have such member's or such vested former member's life annuity reduced, but not any temporary annuity which may be payable, and designate a beneficiary, as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093, and further provided, that if such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required [under] **pursuant to** section 104.1030:

Option 1. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of three-tenths of one percent for each year the retiree's age is younger than age sixty-two years, to a maximum increase

of three and six-tenths percent; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of three-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of three-tenths of one percent for each year of age difference; provided, after all adjustments the option 1 percent cannot exceed ninety-five percent. Upon the retiree's death, fifty percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 2. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-three percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of four-tenths of one percent for each year the retiree's age is younger than sixty-two years, to a maximum increase of four and eight-tenths percent; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of five-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths of one percent for each year of age difference; provided, after all adjustments the option 2 percent cannot exceed ninety percent. Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 3. A retiree's life annuity shall be reduced to ninety-five percent of the annuity otherwise payable. If the retiree dies before having received one hundred twenty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid to the retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred twenty monthly payments, the present value of the remaining annuity payments shall be paid to the beneficiary's estate.

Option 4. A retiree's life annuity shall be reduced to ninety percent of the annuity otherwise payable. If the retiree dies before having received one hundred eighty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred eighty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid to the retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred eighty monthly payments, the present value of the remaining annuity payments shall be paid to the beneficiary's estate.

2. If a member is married as of the annuity starting date, the member's annuity shall be paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the member's choice, with the spouse as the member's designated beneficiary unless the spouse consents in writing to the member electing another available form of payment.

3. If a member has elected at the annuity starting date option 1 or 2 pursuant to this section and if the member's spouse or eligible former spouse dies after the annuity starting date but before the member dies, then the member may cancel the member's election and return to the life annuity form of payment and annuity amount, effective the first of the month following the date of such spouse's or eligible former spouse's death.

4. If a member designates a spouse as a beneficiary [under] **pursuant to** this section and subsequently that marriage ends as a result of a dissolution of marriage, such dissolution shall not affect the option election pursuant to this section and the former spouse shall continue to be eligible to receive survivor benefits upon the death of the member.

5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the annuity starting date as described in this section if the member makes such election within one year from the date of marriage or July 1, 2000, whichever is later, pursuant to any of the following circumstances:

(1) The member elected to receive a life annuity and was not eligible to elect option 1 or 2 on the annuity starting date; or

(2) The member's annuity reverted to a normal or early retirement annuity pursuant to subsection 3 of this section, and the member remarried.

6. Effective September 1, 2001, the retirement application of any member who fails to make an election pursuant to subsection 1 of this section within ninety days of the annuity starting date contained in such retirement application shall be nullified. Any member whose retirement application is nullified shall not receive retirement benefits until the member files a new application for retirement pursuant to section 104.1024 and makes the election pursuant to subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

104.1030. DEATH PRIOR TO ANNUITY STARTING DATE, EFFECT OF — SURVIVING SPOUSE'S BENEFITS — APPLICABILITY TO MEMBERS OF GENERAL ASSEMBLY AND STATEWIDE OFFICIALS. — 1. If a member with five or more years of credited service or a vested former member dies before such member's or such vested former member's annuity starting date, the applicable annuity provided in this section shall be paid.

2. The member's surviving spouse who was married to the member at the date of death shall receive an annuity computed as if such member had:

(1) Retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death, and without reduction if the member's age was younger than normal retirement eligibility;

(2) Elected option 2 provided for in section 104.1027; and

(3) Designated such spouse as beneficiary under such option.

3. If a spouse annuity is not payable pursuant to the provisions of subsection 2 of this section, or when a spouse annuity has ceased to be payable, eighty percent of an annuity computed in the same manner as if the member had retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death and without reduction if the member's age at death was younger than normal retirement eligibility shall be divided equally among the dependent children of the deceased member. A child shall be a dependent child until death or attainment of age twenty-one, whichever occurs first; provided the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction. Upon a child ceasing to be a dependent child, that child's portion of the dependent annuity shall cease to be paid, and the amounts payable to any remaining dependent children shall be proportionately increased.

4. For the purpose of computing the amount of an annuity payable pursuant to this section, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of his **or her** actual performance of duty as an employee, then the minimum annuity to such member's spouse or, if no spouse benefits are payable, the minimum annuity that shall be divided among and paid to such member's dependent children shall be fifty percent of final average pay. The credited service requirement of subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

5. The provisions of this section shall apply to members of the general assembly and statewide elected officials except that the credited service and monthly pay requirements described in section 104.1084 shall apply notwithstanding any other language to the contrary contained in this section.

104.1039. REEMPLOYMENT OF A RETIREE, EFFECT ON ANNUITY. — If a retiree is employed as an employee by a department[, the retiree shall not receive an annuity payment for any calendar month in which the retiree is so employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service upon subsequent retirement. Such retiree shall receive an additional annuity in addition to the original annuity, calculated

based only on the credited service and the pay earned by such retiree during reemployment and paid in accordance with the annuity option originally elected; provided such retiree who ceases to receive an annuity under this section shall not receive such additional annuity if such retiree is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created under this chapter. The original annuity and any additional annuity shall be paid commencing as of the end of the first month after the month during which the retiree's reemployment terminates.] **and works more than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retiree shall not receive an annuity or additional credited service for any month or part of a month for which the retiree is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.1060. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter.**

104.1051. ANNUITY DEEMED MARITAL PROPERTY — DIVISION OF BENEFITS. — 1. Any annuity provided pursuant to the year 2000 plan is marital property and a court of competent jurisdiction may divide such annuity between the parties to any action for dissolution of marriage if at the time of the dissolution the member has at least five years of credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity **or retirement plan** not selected by the member;

(2) Shall not require the applicable retirement system to commence payments until the member's annuity starting date;

(3) Shall identify [a percentage of] the monthly amount to be paid to the former spouse, which shall **be expressed as a percentage and which shall** not exceed fifty percent of the amount of the member's annuity accrued during **all or part of** the period of the marriage of the member and former spouse **and which shall be based on the member's vested annuity on the date of the dissolution of marriage or an earlier date as specified in the order**, which amount shall be adjusted proportionately upon the annuity starting date if the member's annuity is reduced due to the receipt of an early retirement annuity;

(4) Shall not require the payment of an annuity amount to the member and former spouse which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any annuity increases, temporary annuity received pursuant to subsection 4 of section 104.1024, additional years of credited service, increased final average pay, **increased pay pursuant to subsections 2 and 5 of section 104.1084**, or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member[.]; except that **on or after September 1, 2001**, any cost-of-living adjustment (COLA) due after the annuity starting date shall [be applied to the amounts received by both the member and the former spouse after the date of dissolution] **not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;**

(6) Shall terminate upon the death of either the member or the former spouse, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address, date of birth, and Social Security number of both the member and the former spouse, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system shall provide the court having jurisdiction of a dissolution of a marriage proceeding or the parties to the proceeding with information necessary to issue a division of

benefits order concerning a member of the system, upon written request from either the court, the member, or the member's spouse, citing this section and identifying the case number and parties.

3. A system shall have the discretionary authority to reject a division of benefits order for the following reasons:

- (1) The order does not clearly state the rights of the member and the former spouse;
- (2) The order is inconsistent with any law governing the retirement system.

104.1072. LIFE INSURANCE BENEFITS — MEDICAL INSURANCE FOR CERTAIN RETIREES.

— 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered pursuant to the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in the amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee;

(2) Upon a member terminating employment and becoming a retiree the month following termination of employment, five thousand dollars of life insurance shall be provided.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased is that amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars.

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

(4) Effective July 1, 2000, any member who applies and is eligible to receive [a temporary] **an annuity** [pursuant to subsection 4 of section 104.1024] **based on the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty** shall be eligible to retain any optional life insurance described in subdivision (1) of this subsection. The amount of such retained insurance shall not be greater than the amount in effect during the month prior to termination of employment. Such insurance may be retained until the [temporary annuity terminates.] **member's attainment of the earliest age for eligibility for reduced Social Security retirement benefits** at which time the amount of such insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this subsection.

3. The state highways and transportation commission may provide for insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system. The state highways and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highways and transportation commission to provide the insurance benefits shall be on the same basis as provided for other state employees pursuant to the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for retired members and their dependents shall be paid by the members. The state highways and transportation commission may contract for all, or any part of, the insurance benefits provided for in this section. If the state highways and transportation commission contracts for insurance benefits, or for administration of the insurance plan, such contracts shall be entered into on the basis of competitive bids.

4. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to provide life insurance benefits as required in subsections 1 and 2 of this section. If the state highways and transportation commission agrees to the request, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any and all costs for life insurance provided pursuant to subdivision (1) of subsection 1 of this section. The person who is covered pursuant to subsection 2 of this section shall be solely responsible for the costs of any additional life insurance.

104.1078. SEPARATE ACCOUNTS ESTABLISHED FOR BENEFITS — CONTRIBUTIONS BY THE STATE — BOARD TO DETERMINE PREMIUMS. — 1. Separate accounts for medical, life insurance and disability benefits provided [under] **pursuant to** sections 104.1072 and 104.1075 shall be established as part of the fund. The funds, property and return on investments of the separate accounts shall not be commingled with any other funds, property and investment return of a system. All benefits and premiums are paid solely from the separate accounts for medical, life insurance and disability benefits provided in this section.

2. The state shall contribute an amount as appropriated by law and approved by the governor per month [per employee] for medical benefits, life insurance, and long-term disability benefits [for each active employee who is a member of a system] **as provided pursuant to sections 104.1072 and 104.1075 and such amounts shall include the cost of providing such benefits to** members not on payroll status who are receiving workers' compensation benefits.

3. Each board shall determine the premium amounts required for participating persons. The premium amounts shall be the amount which, together with the state's contribution, is required to fund the benefits provided, taking into account necessary actuarial reserves. Separate premiums shall be established for employees' benefits and a separate premium or schedule of premiums shall be established for children under twenty-three years of age and for spouses of participating employees. The employee's premiums for spouse and children benefits shall be established to cover that portion of the cost of such benefits which is not paid for by contributions by the state. All such premium amounts shall be paid to a board of trustees at the time that each employee's wages or salary would normally be paid. The premium amounts so remitted will be placed in the separate account for medical, life insurance and disability benefits. In lieu of the

availability of premium deductions, each board may establish alternative methods for the collection of premium amounts.

104.1093. DESIGNATION OF AN AGENT — REVOCATION OF AGENT'S AUTHORITY. — Notwithstanding any provision of law to the contrary, any employee, beneficiary[,] or retiree pursuant to sections 104.010 to 104.1093, **any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo,** may designate an agent who shall have the same authority as an agent pursuant to a durable power of attorney pursuant to sections 404.700 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other benefits. The authority of such agent may be revoked at any time by such employee, beneficiary or retiree. The authority of such agent shall not terminate if such employee, beneficiary or retiree becomes disabled or incapacitated. **The designation shall be effective only upon the disability or incapacity of the benefit recipient as determined by that person's physician and communicated in writing to the system.**

104.1200. DEFINITIONS. — As used in this section and section 104.1215, the following terms mean:

- (1) "Education employee", any person described in the following classifications who is employed by one of the institutions, otherwise would meet the definition of "employee" pursuant to section 104.010 or 104.1003, and is not employed at a technical or vocational school or college: teaching personnel, instructors, assistant professors, associate professors, professors and academic administrators holding faculty rank;
- (2) "Institutions", Truman State University, Northwest Missouri State University, Southeast Missouri State University, Southwest Missouri State University, Central Missouri State University, Harris-Stowe State College, Lincoln University, Missouri Western State College and Missouri Southern State College;
- (3) "Outside employee", any other provisions of sections 104.010 to 104.1093 to the contrary notwithstanding, an education employee first so employed on or after July 1, 2002. An outside employee shall not be covered by the other benefit provisions of this chapter, but rather shall be covered by the benefit provisions provided for pursuant to sections 104.1200 to 104.1215.

104.1205. DUTIES OF BOARD. — The board of trustees of the Missouri state employees' retirement system shall:

- (1) Establish a defined contribution plan for outside employees which, among other things, provides for immediate vesting;
- (2) Select a third-party administrator to provide such services as the board determines to be necessary for the proper administration of the defined contribution plan;
- (3) Select the investment products which shall be made available to the participants in the defined contribution plan;
- (4) Annually establish the contribution rate used for purposes of subsection 3 of section 104.1066 for employees of institutions who are other than outside employees, which shall be done by considering all such employees to be part of the general employee population within the Missouri state employees' retirement system;
- (5) Establish the contribution rate for outside employees which shall be equal to one percent of payroll less than the normal cost contribution rate established pursuant to subdivision (4) of this section; and
- (6) Establish such rules and regulations as may be necessary to carry out the purposes of this section.

104.1210. NO CREDITABLE SERVICE FOR OUTSIDE EMPLOYEE OR MEMBER, WHEN — INFORMATION PROVIDED BY INSTITUTIONS AND ADMINISTRATORS, WHEN. — 1. In no event shall any outside employee or member of the Missouri state employees' retirement system receive creditable service or credited service in the system for any time period in which such employee or member participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215.

2. Institutions and any third-party administrator shall provide such information to the Missouri state employees' retirement system as may be required to implement the provisions of sections 104.1200 to 104.1215.

104.1215. OUTSIDE EMPLOYEE'S ELECTION FOR MEMBERSHIP, WHEN. — Any outside employee who has participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215 for at least six years may elect to become a member of the Missouri state employees' retirement system. Such employee shall:

(1) Make such election while actively employed in a position that would otherwise be eligible for membership in the Missouri state employees' retirement system except for the provisions of sections 104.1200 to 104.1215;

(2) Participate in the year 2000 plan; except that such employee shall participate in the closed plan as defined in section 104.1003 if such employee was a member of the closed plan prior to participating in such defined contribution plan;

(3) Be considered to have met the service requirements contained in subsection 4 of section 104.335 or section 104.1018, whichever is otherwise applicable;

(4) Not receive any creditable service or credited service for service rendered while a participant in such defined contribution plan;

(5) Forfeit any right to future participation in the defined contribution plan after such election; and

(6) Not be eligible to receive credited service pursuant to section 104.1090 based on service rendered while a participant in such defined contribution plan.

476.517. ONE-TIME RETIREMENT PLAN ELECTION FOR CERTAIN JUDGES. — Any judge who is or has been a commissioner or deputy commissioner of the circuit court appointed after February 29, 1972, who has received creditable service pursuant to chapter 104, RSMo, and sections 476.515 to 476.565, based on service as a commissioner or deputy commissioner shall make a one-time retirement plan election upon application to receive retirement benefits. Such judge shall elect to receive retirement benefits based on all of the judge's service as a commissioner or deputy commissioner of the circuit court pursuant to section 104.374, 104.1024 or sections 476.515 to 476.565, RSMo.

476.524. JUDGE WHO SERVED IN ARMED FORCES MAY ELECT TO PURCHASE CREDITABLE PRIOR SERVICE, LIMITATION — AMOUNT OF CONTRIBUTION — PAYMENT PERIOD — TREATMENT OF PAYMENTS. — Any judge as defined in section 476.515 who had performed active service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to holding office, may elect prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the armed forces, but not to exceed four years, if he or she is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the judge with the Missouri state employees' retirement system. However, if the judge is eligible to receive retirement credits in a United States military service retirement system, he or she shall be permitted to purchase creditable prior service equivalent to his or her service in the armed forces but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the judge's submission of the appropriate documentation verifying

the judge's dates of active service and by paying to the Missouri state employees' retirement system an amount equal to what would have been contributed by the state [in his behalf had he been a member for the period for which he is electing to purchase credit and had his compensation during such period of such membership been the same as the annual salary rate at which he was initially employed by the state or when he first became a judge, whichever first occurred, with the calculations based on a contribution rate established by the actuary for the Missouri state employees' retirement system which would be equal to a contribution rate which would be used if the judicial system were founded on an actuarial basis with simple interest at the same rate in effect at the time of election calculated from the time of employment by the state to the date of election under this section] **on the judge's behalf had the judge been a judge for the period for which the judge is electing to purchase credit and had the judge's compensation during such period of membership been the same as the annual salary rate at which the judge was initially employed, with the calculations based on the assumed or actual contribution rate in effect on the date of employment with simple interest calculated from the initial date of employment of the judge to the date of election pursuant to this section.** The payment shall be made over a period of not longer than two years, measured from the date of election, with simple interest on the unpaid balance. All payments for purchase of service [under] **pursuant to** this section shall be set aside in a reserve fund for funding of said benefits. Payments made for such creditable prior service [under] **pursuant to** this section shall be treated by the Missouri state employees' retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

SECTION 1. CERTAIN LEGAL ADVISORS TO BE MADE SPECIAL CONSULTANTS ON PROBLEMS OF RETIREMENT — LEGAL ADVISOR DEFINED. — 1. Any person who has been appointed or employed as a legal advisor pursuant to section 286.070, RSMo, prior to August 28, 2001, who is receiving or thereafter is qualified to receive retirement benefits pursuant to section 104.374, RSMo, shall upon application be made, constituted, appointed and employed by the board of trustees of the Missouri state employees' retirement system as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the administrative hearing commission, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services and in lieu of receiving benefits pursuant to section 104.374, RSMo, each such special consultant shall be eligible for all benefits payable pursuant to sections 287.812 to 287.856, RSMo, effective upon the later of August 28, 1999, or the date retirement benefits become payable. In no event shall retroactive benefits be paid.

2. The term "legal advisor" as defined in subdivision (6) of section 287.812, RSMo, shall be deemed to include any attorney or legal counsel appointed or employed pursuant to section 286.070, RSMo.

SECTION 2. SPOUSE DEFINED. — For the purposes of public retirement systems administered pursuant to chapter 104, RSMo, any reference to the term "spouse" only recognizes marriage between a man and a woman.

Approved July 13, 2001

SB 374 [HS SCS SB 374]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a program of air pollution emissions banking and trading.

AN ACT to amend chapter 643, RSMo, by adding thereto one new section relating to emissions banking and trading.

SECTION

A. Enacting clause.

643.220. Missouri emissions banking and trading program established by commission — promulgation of rules.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 643, RSMo, is amended by adding thereto one new section, to be known as section 643.220, to read as follows:

643.220. MISSOURI EMISSIONS BANKING AND TRADING PROGRAM ESTABLISHED BY COMMISSION — PROMULGATION OF RULES. — 1. The commission shall promulgate rules establishing a "Missouri Air Emissions Banking and Trading Program" to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency pursuant to the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended. In promulgating such rules, the commission may consider, but not be limited to, inclusion of provisions concerning the definition and transfer of air emissions reduction credits or allowances between mobile sources, area sources and stationary sources, the role of offsets in emissions trading, interstate and regional emissions trading and the mechanisms necessary to facilitate emissions trading and banking, including consideration of the authority of contiguous states.

2. The program shall:

- (1) Not include any provisions prohibited by federal law;
- (2) Be applicable to criteria pollutants and their precursors as defined by the federal Clean Air Act, as amended;
- (3) Not allow banked or traded emissions credits to be used to meet federal requirements for hazardous air pollutant standards pursuant to Section 112 of the federal Clean Air Act;
- (4) Allow banking and trading of criteria pollutants that are also hazardous air pollutants, as defined in Section 112 of the federal Clean Air Act, to the extent that verifiable emissions reductions achieved are in excess of those required to meet hazardous air pollutant emissions standards promulgated pursuant to Section 112 of the federal Clean Air Act;
- (5) Authorize the direct trading of air emission reduction credits or allowances between nongovernmental parties, subject to the approval of the department;
- (6) Allow net air emission reductions from federally-approved permit conditions to be transferred to other sources for use as offsets required by the federal Clean Air Act in nonattainment areas to allow construction of new emission sources; and
- (7) Not allow banking of air emission reductions unless they are in excess of reductions required by state or federal regulations or implementation plans.

3. The department shall verify, certify or otherwise approve the amount of an air emissions reduction credit before such credit is banked. Banked credits may be used, traded, sold or otherwise expended within the same nonattainment area, maintenance area or air quality modeling domain in which the air emissions reduction occurred, provided that there will be no resulting adverse impact of air quality.

4. To be creditable for deposit in the Missouri air emissions bank, a reduction in air emissions shall be permanent, quantifiable and federally approved.

5. To be tradeable between air emission sources, air emission reduction credits shall be based on air emission reductions that occur after the effective date of this section.

6. In nonattainment areas, the bank of criteria pollutants and their precursors shall be reduced by three percent annually for as long as the area is classified as a nonattainment area.

Approved July 12, 2001

SB 382 [HCS SCS SB 382]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits release of nonpublic information by financial institutions.

AN ACT relating to compliance with Title V of the federal Gramm-Leach- Bliley Financial Modernization Act of 1999, with an emergency clause.

SECTION

1. Disclosure of nonpublic personal information by financial institutions prohibited, rules, notice.
- A. Enacting clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION BY FINANCIAL INSTITUTIONS PROHIBITED, RULES, NOTICE. — 1. No person shall disclose any nonpublic personal information to a nonaffiliated third party contrary to the provisions of Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 (15 U.S.C. 6801 to 6809). A state agency with the primary regulatory authority over an activity engaged in by a financial institution which is subject to Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 may adopt rules and regulations to carry out this section with respect to such activity. Such rules and regulations adopted pursuant to this section shall be consistent with and not be more restrictive than standards contained in Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999.

2. Unless prohibited by federal law or regulation, any financial institution required to provide a disclosure of the institution's privacy policy pursuant to Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 shall provide an initial notice regarding such privacy policy:

(1) At the time the customer relationship is established for consumers who become new customers of the financial institution on or after July 1, 2001; and

(2) Before June 30, 2002, for consumers who are existing customers of the financial institution.

A financial institution shall not disclose any nonpublic personal information to a nonaffiliated third party contrary to the provisions of Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 before the financial institution has made the disclosure required in this section.

SECTION A. ENACTING CLAUSE. — Because of the need to protect consumer confidentiality, the enactment of section 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 1 of this act shall be in full force and effect upon its passage and approval or July 1, 2001, whichever later occurs.

Approved May 23, 2001

SB 383 [SCS SB 383]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to sell certain property in Platte County.

AN ACT to authorize the conveyance of property owned by the state in Platte County to Kansas City International Airport.

SECTION

1. Conveyance of property by governor to the Kansas City International Airport — commissioner of administration to set terms of sale — attorney general to approve form of conveyance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY GOVERNOR TO THE KANSAS CITY INTERNATIONAL AIRPORT — COMMISSIONER OF ADMINISTRATION TO SET TERMS OF SALE — ATTORNEY GENERAL TO APPROVE FORM OF CONVEYANCE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in fee simple absolute in property owned by the state in Platte County known as the KCI Multi-Purpose Export Facility to the Kansas City International Airport. The KCI Multi-Purpose Export Facility, is more particularly described as follows:

All that part of Tracts 143 and 144, KANSAS CITY INTERNATIONAL AIRPORT, a subdivision in Kansas City, Platte County, Missouri, described as follows:

Beginning at a point on the Southerly line of said Tract 144 that is South 76 degrees 55 minutes 19 seconds East, a distance of 643.24 feet from the Southwest corner thereof; thence North 17 degrees 09 minutes 31 seconds West, a distance of 69.68 feet; thence North 72 degrees 50 minute 29 seconds East, a distance of 200.00 feet; thence South 17 degrees 09 minutes 31 seconds East a distance of 300 feet; thence South 72 degrees 50 minutes 29 seconds West, a distance of 200 feet; thence North 17 degrees 09 minutes 31 seconds West, a distance of 230.32 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place and terms of the sale.

3. The attorney general shall approve as to form the instrument of conveyance.

Approved June 26, 2001

SB 384 [SCS SB 384]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds additional criteria for the denial or revocation of dietitians' licenses.

AN ACT to repeal sections 324.212 and 324.217, RSMo 2000, relating to licensure of dietitians, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

324.212. Applications for licensure, fees — renewal notices — dietitian fund established.

324.217. Refusal to issue or renew license, when — complaint filed against licensee, when — hearing procedures — maintenance of complaints filed — recommendation for prosecution.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 324.212 and 324.217, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 324.212 and 324.217, to read as follows:

324.212. APPLICATIONS FOR LICENSURE, FEES — RENEWAL NOTICES — DIETITIAN FUNDESTABLISHED. — 1. Applications for licensure as a dietitian shall be in writing, submitted to the committee on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for [licensure] **renewal**, or to pay the [licensure] **renewal** fee after such notice shall effect a noncurrent license. The license shall be [restored] **reinstated** if, within two years of the [licensure] **renewal** date, the applicant submits the required documentation and pays the applicable fees as approved by the committee.

3. A new [certificate] **license** to replace any [certificate] **license** lost, destroyed or mutilated may be issued subject to the rules of the committee upon payment of a fee.

4. The committee shall set by rule the appropriate amount of fees authorized herein. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of sections 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is hereby created.

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the dietitian fund for the preceding fiscal year.

324.217. REFUSAL TO ISSUE OR RENEW LICENSE, WHEN — COMPLAINT FILED AGAINST LICENSEE, WHEN — HEARING PROCEDURES — MAINTENANCE OF COMPLAINTS FILED — RECOMMENDATION FOR PROSECUTION. — 1. The committee may refuse to issue any license or renew any license required by the provisions of sections 324.200 to 324.225 for one or any combination of reasons stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against the holder of any license required by sections 324.200 to 324.225 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of fraud, deception, misrepresentation or bribery in securing a license issued pursuant to the provisions of sections 324.200 to 324.225 or in obtaining permission to take the examination required pursuant to sections 324.200 to 324.225;

(2) Impersonation of any person holding a license or allowing any person to use his or her license or diploma from any school;

(3) [Revocation or suspension of a license] **Disciplinary action against the holder of a license** or other right to practice medical nutrition therapy by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(4) [Obtaining] **Issuance of** a license based upon a material mistake of fact; [or]

(5) [Failure to display a valid license if so required by sections 324.200 to 324.225 or any rule promulgated pursuant thereto] **The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or the United States for any offense reasonably related to the qualifications, functions or duties of the professional who is regulated by sections 324.200 to 324.225, for any offense an essential element of which is fraud, dishonesty or act of violence, or for any offense involving moral turpitude, regardless of whether sentence is imposed;**

(6) **Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession that is regulated by sections 324.200 to 324.225;**

(7) **Violation of, or assisting or enabling any person to violate, any provision of sections 324.200 to 324.225, or any lawful rule adopted pursuant to such sections;**

(8) **A person is finally adjudged insane or incompetent by a court of competent jurisdiction;**

(9) **Use of any advertisement or solicitation that is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;**

(10) **Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;**

(11) **Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession that is licensed or regulated by sections 324.200 to 324.225;**

(12) **Violation of the drug laws or rules and regulations of this state, any other state or the federal government; or**

(13) **Violation of any professional trust or confidence.**

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 324.200 to 324.225 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of a complaint pursuant to subsection 2 of this section, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed [three] **five** years, or **may suspend, for a period not to exceed three years,** or revoke the license of the person. **An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the committee after compliance with all requirements of sections 324.200 to 324.225 relative to the licensing of an applicant for the first time.**

5. The committee shall maintain an information file containing each complaint filed with the committee relating to a holder of a license. [The committee, at least quarterly, shall notify the complainant and holder of a license of the complaint's status until final disposition.]

6. The committee shall recommend for prosecution violations of sections 324.200 to 324.225 to an appropriate prosecuting or circuit attorney.

Approved July 10, 2001

SB 393 [CCS HS SCS SB 393]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands provisions allowing gratuitous dental services.

AN ACT to repeal sections 167.181, 191.211, 191.411, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 332.072, 332.181, 332.261, 332.311, and 332.321, RSMo 2000, relating to dental care, and to enact in lieu thereof twenty-two new sections relating to the same subject, with an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 167.181. Immunization of pupils against certain diseases compulsory — exceptions — records — to be at public expense, when — fluoride treatments administered, when — rulemaking authority, procedure.
- 191.211. Funding of certain programs.
- 191.213. Additional funding sources for certain programs.
- 191.411. System of coordinated health care services — health access incentive fund created, purpose — enhanced Medicaid payments — rules.
- 191.600. Loan repayment program established — health professional student loan repayment program fund established — use.
- 191.603. Definitions.
- 191.605. Department to designate as areas of need — factors to be considered.
- 191.607. Qualifications for eligibility established by department.
- 191.609. Contract for repayment of loans, contents.
- 191.611. Loan repayment program to cover certain loans — amount paid per year of obligated service — schedule of payments — communities sharing costs to be given first consideration.
- 191.614. Termination of medical studies or failure to become licensed doctor, liability — breach of contract for service obligation, penalties — recovery of amount paid by contributing community.
- 191.615. Application for federal funds — insufficient funds, effect.
- 192.070. Care of babies and hygiene of children, educational literature to be issued by department.
- 332.072. Gratuitous dental services, dentists and dental hygienists licensed in other states may perform, when — prohibited, when — dental hygiene services, supervision required, when.
- 332.086. Advisory commission for dental hygienists established, duties, members, terms, meetings, expenses.
- 332.181. License to practice dentistry, application, renewal — continuing education requirement, exception — failure to renew license, requirements to renew — inactive list, procedure — out-of-state licensee, who is eligible.
- 332.261. License as dental hygienist, application, renewal — continuing education requirement, exception — renewal and reinstatement procedure — out-of-state licensee, eligibility.
- 332.311. Dental hygienist to practice under dentist supervision only — no supervision required for fluoride treatments, teeth cleaning and sealants.
- 332.321. Refusal to issue or renew, revocation or suspension of license, grounds for, procedure — additional disciplinary actions.
- 332.324. Donated dental services program established — contract with Missouri dental board, contents.
- 660.026. Funding for federally qualified health centers, uses — report to the director.
 - 1. Dental primary care and preventative health services.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 167.181, 191.211, 191.411, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 332.072, 332.181, 332.261, 332.311 and 332.321, RSMo 2000, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 167.181, 191.211, 191.213, 191.411, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 332.072, 332.086, 332.181, 332.261, 332.311, 332.321, 332.324, 660.026 and 1, to read as follows:

167.181. IMMUNIZATION OF PUPILS AGAINST CERTAIN DISEASES COMPULSORY — EXCEPTIONS — RECORDS — TO BE AT PUBLIC EXPENSE, WHEN — FLUORIDE TREATMENTS

ADMINISTERED, WHEN — RULEMAKING AUTHORITY, PROCEDURE. — 1. The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo. **When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.**

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

191.211. FUNDING OF CERTAIN PROGRAMS. — State expenditures for new programs and initiatives enacted by sections [191.411, RSMo, and sections] 103.178, RSMo, 143.999, RSMo, [167.600 to 167.621, RSMo,] 188.230, RSMo, [191.211,] 191.231, 191.825 to 191.839, RSMo, [192.013, RSMo,] 208.177, 208.178, 208.179 and 208.181, RSMo, 211.490, RSMo, 285.240, RSMo, 337.093, RSMo, 374.126, RSMo, 376.891 to 376.894, RSMo, 431.064, RSMo, 660.016, 660.017 and 660.018, RSMo, and the state expenditures for the new initiatives and expansion of programs enacted by revising sections 105.711 and 105.721, RSMo, 191.520, 191.600, 198.090, RSMo, 208.151, 208.152 and 208.215, RSMo, as provided by H.B. 564,

1993, shall be funded exclusively by federal funds and the funding sources established in sections 149.011, 149.015, 149.035, 149.061, 149.065, 149.160, 149.170, 149.180, 149.190 and 149.192, RSMo, and no future general revenue shall be appropriated to fund such new programs or expansions.

191.213. ADDITIONAL FUNDING SOURCES FOR CERTAIN PROGRAMS. — State expenditures for programs and initiatives enacted by section 191.411 and sections 167.600 to 167.621, RSMo, may be funded by federal funds, general revenue funds and any other funds appropriated to fund such programs.

191.411. SYSTEM OF COORDINATED HEALTH CARE SERVICES — HEALTH ACCESS INCENTIVE FUND CREATED, PURPOSE — ENHANCED MEDICAID PAYMENTS — RULES. — 1. The director of the department of health shall develop and implement a plan to define a system of coordinated health care services available and accessible to all persons, in accordance with the provisions of this section. The plan shall encourage the location of appropriate practitioners of health care services, **including dentists**, in **rural and urban** areas of the state, **particularly those areas** designated by the director of the department of health as health resource shortage areas, in return for the consideration enumerated in subsection 2 of this section. The department of health shall have authority to contract with public and private health care providers for delivery of such services.

2. There is hereby created in the state treasury the "Health Access Incentive Fund". Moneys in the fund shall be used to implement and encourage a program to fund **loans**, loan repayments, start-up grants, provide locum tenens, professional liability insurance assistance, practice subsidy, annuities when appropriate, or technical assistance in exchange for location of appropriate health providers, **including dentists**, who agree to serve all persons in need of health services regardless of ability to pay. The department of health shall encourage the recruitment of minorities in implementing this program.

3. In accordance with an agreement approved by both the director of the department of social services and the director of the department of health, the commissioner of the office of administration shall issue warrants to the state treasurer to transfer available funds from the health access incentive fund to the department of social services to be used to enhance medicaid payments to physicians or dentists in order to enhance the availability of physician or dental services in shortage areas. The amount that may be transferred shall be the amount agreed upon by the directors of the departments of social services and health and shall not exceed the maximum amount specifically authorized for any such transfer by appropriation of the general assembly.

4. The general assembly shall appropriate money to the health access incentive fund from the health initiatives fund created by section 191.831. The health access incentive fund shall also contain money as otherwise provided by law, gift, bequest or devise. Notwithstanding the provisions of section 33.080, RSMo, the unexpended balance in the fund at the end of the biennium shall not be transferred to the general revenue fund of the state.

5. The director of the department of health shall have authority to promulgate reasonable rules to implement the provisions of this section pursuant to chapter 536, RSMo[, and section 192.013, RSMo].

191.600. LOAN REPAYMENT PROGRAM ESTABLISHED — HEALTH PROFESSIONAL STUDENT LOAN REPAYMENT PROGRAM FUND ESTABLISHED — USE. — 1. Sections 191.600 to 191.615 establish a loan repayment program for graduates of approved medical schools, schools of osteopathic medicine, **schools of dentistry** and accredited chiropractic colleges who practice in areas of defined need and shall be known as the "[Medical School] **Health Professional Student** Loan Repayment Program".

2. The "[Medical School] **Health Professional Student** Loan and Loan Repayment Program Fund" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 191.614 and all funds generated by loan repayments and penalties received pursuant to section 191.540 shall be credited to the fund. The moneys in the fund shall be used by the department of health to provide loan repayments pursuant to section 191.611 in accordance with sections 191.600 to 191.614 and to provide loans pursuant to sections 191.500 to 191.550.

191.603. DEFINITIONS. — As used in sections 191.600 to 191.615, the following terms shall mean:

(1) "Areas of defined need", areas designated by the department pursuant to section 191.605, when services of a physician **or dentist** are needed to improve the patient-doctor ratio in the area, to contribute **health care** professional [physician] services to an area of economic impact, or to contribute **health care** professional [physician] services to an area suffering from the effects of a natural disaster;

(2) "Department", the department of health;

(3) **"General dentist", dentists licensed and registered pursuant to chapter 332, RSMo, engaged in general dentistry and who are providing such services to the general population;**

(4) "Primary care physician", physicians licensed and registered pursuant to chapter 334, RSMo, engaged in general or family practice, internal medicine, pediatrics or obstetrics and gynecology as their primary specialties, and who are providing such primary care services to the general population.

191.605. DEPARTMENT TO DESIGNATE AS AREAS OF NEED — FACTORS TO BE CONSIDERED. — The department shall designate counties, communities, or sections of urban areas as areas of defined need when such county, community or section of an urban area has[, but is not limited to, the following:

(1) A population to primary care physician ratio of three thousand five hundred to one or more; or

(2) A population to primary care physician ratio of less than three thousand five hundred to one, but greater than two thousand five hundred to one; and

(a) Has a twenty percent or greater population fifty-five years of age or over; or

(b) Twenty percent of the population or households are below the poverty level; or

(c) If the largest hospital in the area is approximately thirty miles or more from a comparable or larger facility or if the central community in the area is approximately fifteen miles or more from a hospital having more than four thousand discharges a year or more than four hundred deliveries annually; and

(d) Has a community or city of six thousand or more population plus the surrounding area up to a radius of approximately fifteen miles that serves as the central community or an urban or metropolitan neighborhood located within the central city or cities of a standard metropolitan statistical area having limited interaction with contiguous areas and a minimum population of approximately twenty thousand;

(3) Any other community or section of an urban area with unusual circumstances can be evaluated on a case-by-case basis for designation by the department as an area of defined need] **been designated as a primary care health professional shortage area or a dental health care professional shortage area by the federal Department of Health and Human Services, or has been determined by the director of the department of health to have an extraordinary need for health care professional services, without a corresponding supply of such professionals.**

191.607. QUALIFICATIONS FOR ELIGIBILITY ESTABLISHED BY DEPARTMENT. — The department shall adopt and promulgate regulations establishing standards for determining eligible persons for loan repayment [under] **pursuant to** sections 191.600 to 191.615. These standards shall include, but are not limited to the following:

- (1) Citizenship or permanent residency in the United States;
- (2) Residence in the state of Missouri;
- (3) Enrollment as a full-time medical student in the final year of a course of study offered by an approved educational institution or licensed to practice medicine or osteopathy pursuant to chapter 334, RSMo;
- (4) **Enrollment as a full-time dental student in the final year of course study offered by an approved educational institution or licensed to practice general dentistry pursuant to chapter 332, RSMo;**
- (5) Application for loan repayment.

191.609. CONTRACT FOR REPAYMENT OF LOANS, CONTENTS. — 1. The department shall enter into a contract with each individual qualifying for repayment of educational loans. The written contract between the department and an individual shall contain, but not be limited to, the following:

- (1) An agreement that the state agrees to pay on behalf of the individual loans in accordance with section 191.611 and the individual agrees to serve for a time period equal to two years, or such longer period as the individual may agree to, in an area of defined need, such service period to begin within one year of the signed contract;
- (2) A provision that any financial obligations arising out of a contract entered into and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments;
- (3) The area of defined need where the person will practice;
- (4) A statement of the damages to which the state is entitled for the individual's breach of the contract;
- (5) Such other statements of the rights and liabilities of the department and of the individual not inconsistent with sections 191.600 to 191.615.

2. The department may stipulate specific practice sites contingent upon department generated [physician] **health care professional** need priorities where applicants shall agree to practice for the duration of their participation in the program.

191.611. LOAN REPAYMENT PROGRAM TO COVER CERTAIN LOANS — AMOUNT PAID PER YEAR OF OBLIGATED SERVICE — SCHEDULE OF PAYMENTS — COMMUNITIES SHARING COSTS TO BE GIVEN FIRST CONSIDERATION. — 1. A loan payment provided for an individual under a written contract under the [medical school] **health professional student** loan payment program shall consist of payment on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for tuition, fees, books, laboratory, and living expenses incurred by the individual.

2. For each year of obligated services that an individual contracts to serve in an area of defined need, the director may pay [up to twenty thousand dollars] **an amount not to exceed the maximum amounts allowed under the National Health Service Corps Loan Repayment Program, 42 U.S.C. Section 2541-1, P.L. 106-213**, on behalf of the individual for loans described in subsection 1 of this section.

3. The department may enter into an agreement with the holder of the loans for which repayments are made [under] **pursuant to** the [medical school] **health professional student** loan payment program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the state.

4. Any qualifying communities providing a portion of a loan repayment shall be considered first for placement.

191.614. TERMINATION OF MEDICAL STUDIES OR FAILURE TO BECOME LICENSED DOCTOR, LIABILITY — BREACH OF CONTRACT FOR SERVICE OBLIGATION, PENALTIES — RECOVERY OF AMOUNT PAID BY CONTRIBUTING COMMUNITY. — 1. An individual who has entered into a written contract with the department; and in the case of an individual who is enrolled in the final year of a course of study and fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study or fails to become licensed pursuant to chapter **332 or 334**, RSMo, within one year shall be liable to the state for the amount which has been paid on his **or her** behalf under the contract.

2. If an individual breaches the written contract of the individual by failing either to begin such individual's service obligation or to complete such service obligation, the state shall be entitled to recover from the individual an amount equal to the sum of:

(1) The total of the amounts prepaid by the state on behalf of the individual;

(2) The interest on the amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum prevailing rate as determined by the Treasurer of the United States;

(3) An amount equal to [the unserved obligation penalty, the amount equal to the product number of months of obligated service which were not completed by an individual, multiplied by five hundred dollars] **any damages incurred by the department as a result of the breach;**

(4) Any legal fees or associated costs incurred by the department or the state of Missouri in the collection of damages.

3. The department may act on behalf of a qualified community to recover from an individual described in subsections 1 and 2 of this section the portion of a loan repayment paid by such community for such individual.

191.615. APPLICATION FOR FEDERAL FUNDS — INSUFFICIENT FUNDS, EFFECT. — 1. The department shall submit a grant application to the Secretary of the United States Department of Health and Human Services as prescribed by the secretary to obtain federal funds to finance the [medical school] **health professional student** loan repayment program.

2. Sections 191.600 to 191.615 shall not be construed to require the department to enter into contracts with individuals who qualify for the [medical school] **health professional student** loan repayment program when federal and state funds are not available for such purpose.

192.070. CARE OF BABIES AND HYGIENE OF CHILDREN, EDUCATIONAL LITERATURE TO BE ISSUED BY DEPARTMENT. — The [bureau of child hygiene in the] department of health shall issue educational literature on the care of the baby and the hygiene of the child **including, but not limited to, the importance of routine dental care for children;** study the causes of infant mortality and the application of measures for the prevention and suppression of the diseases of infancy and childhood; and inspect the sanitary and hygienic conditions in public school buildings and grounds.

332.072. GRATUITOUS DENTAL SERVICES, DENTISTS AND DENTAL HYGIENISTS LICENSED IN OTHER STATES MAY PERFORM, WHEN — PROHIBITED, WHEN — DENTAL HYGIENE SERVICES, SUPERVISION REQUIRED, WHEN. — Notwithstanding any other provision of law to the contrary, any qualified dentist who is legally authorized to practice pursuant to the laws of another state may practice as a dentist in this state without examination by the board or payment of any fee and any qualified dental hygienist who is a graduate of an accredited dental hygiene school and legally authorized to practice pursuant to the laws of another state may practice as a dental hygienist in this state without examination by the board or payment of any fee, if such dental or dental hygiene practice consists solely of the provision of gratuitous dental or dental hygiene services provided for [a summer camp for] a period of not more than fourteen

days in any one calendar year. Dentists and dental hygienists who are currently licensed in other states and have been refused licensure by the state of Missouri or previously been licensed by the state, but are no longer licensed due to suspension or revocation shall not be allowed to provide gratuitous dental services within the state of Missouri. Any dental hygiene services provided pursuant to this section shall be performed under the supervision of a dentist providing dental services pursuant to this section or a dentist licensed to practice dentistry in Missouri.

332.086. ADVISORY COMMISSION FOR DENTAL HYGIENISTS ESTABLISHED, DUTIES, MEMBERS, TERMS, MEETINGS, EXPENSES. — 1. There is hereby established a five-member "Advisory Commission for Dental Hygienists", composed of dental hygienists appointed by the governor as provided in subsection 2 of this section and the dental hygienist member of the Missouri dental board, which shall guide, advise and make recommendations to the Missouri dental board. The commission shall:

- (1) Recommend the educational requirements to be registered as a dental hygienist;**
- (2) Annually review the practice act of dental hygiene;**
- (3) Make recommendations to the Missouri dental board regarding the practice, licensure, examination and discipline of dental hygienists; and**
- (4) Assist the board in any other way necessary to carry out the provisions of this chapter as they relate to dental hygienists.**

2. The members of the commission shall be appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of Missouri for one year and shall be a dental hygienist registered and currently licensed pursuant to this chapter. Members of the commission who are not also members of the Missouri dental board shall be appointed for terms of five years, except for the members first appointed, one of which shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. The dental hygienist member of the Missouri dental board shall become a member of the commission and shall serve a term concurrent with the member's term on the dental board. All members of the initial commission shall be appointed by April 1, 2002. Members shall be chosen from lists submitted by the director of the division of professional registration. Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists Association.

3. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The commission shall meet in conjunction with the dental board meetings or no more than fourteen days prior to regularly scheduled dental board meetings. Additional meetings shall require a majority vote of the commission. A quorum of the commission shall consist of a majority of its members.

4. Members of the commission shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties on the commission and in attending meetings of the Missouri dental board. The Missouri dental board shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission.

332.181. LICENSE TO PRACTICE DENTISTRY, APPLICATION, RENEWAL — CONTINUING EDUCATION REQUIREMENT, EXCEPTION — FAILURE TO RENEW LICENSE, REQUIREMENTS TO RENEW — INACTIVE LIST, PROCEDURE — OUT-OF-STATE LICENSEE, WHO IS ELIGIBLE. — 1. [After a person has received a certificate of registration qualifying him to practice dentistry in Missouri, he may within one year from the date of his certificate, apply, on forms furnished to the applicant for, and upon payment of a dentist's license fee shall receive, a license to

practice dentistry in Missouri.] **No person shall engage in the practice of dentistry in Missouri without having first secured a license as provided for in this chapter.**

2. [The certificate of registration of a dentist issued to any person who fails to apply for a license as herein provided within one year after the date of his certificate of registration shall be void.] **Any person desiring a license to practice dentistry in Missouri shall make application to the board on a form prescribed by the board pursuant to section 332.141. An application for licensure shall be active for one year after the date it is received by the board. The application becomes void if not completed within such one-year period.**

3. [Each person who holds a certificate of registration] **All persons once licensed to practice dentistry in Missouri shall renew his or her license to practice dentistry in Missouri on or before the license renewal date and shall display his or her license for each current licensing period in the office in which he or she practices or offers to practice dentistry.**

4. **Effective with the licensing period beginning on December 1, 2002, a license shall be renewed every two years.** The board shall not renew [any certificate of registration] **the license** of any dentist unless the licensee [shall provide] **provides** satisfactory evidence that he **or she** has completed [seventy-five] **fifty** hours of continuing education within a [three-year] **two-year** period. **The board may extend the time requirements for completion of continuing education up to six months for reasons related to health, military service, foreign residency or for other good cause. All requests for extensions of time shall be made in writing and submitted to the board before the renewal date.** The board may waive the requirements for continuing education for retired or disabled dentists or for other good cause.

5. Any [registered and] licensed dentist who fails to renew his **or her** license on or before the renewal date may apply to the board for [a] renewal of his **or her** license within [five] **four** years subsequent to the date [his license expired] **of the license expiration**, provided that any such applicant shall pay a reinstatement fee for the license.

6. The [certificate of registration] **license** of any dentist who fails to renew [his license] within [five] **four** years of the time his **or her** license has expired shall be void. [He] **The dentist** may reapply for a [new certificate of registration] **license**, provided that, unless [he applies under] **application is made pursuant to** section 332.211, he **or she** shall pay the same fees and be examined in the same manner as an original applicant for [a certificate of registration] **licensure** as a dentist. A [registered and] currently licensed dentist in Missouri may apply to the board to be placed on an inactive list of dentists, and during the time his **or her** name remains on the inactive list, he **or she** shall not practice dentistry. If a dentist wishes to be removed from the inactive list, unless he **or she** applies [under] **pursuant to** section 332.211, he **or she** shall apply for a current license and pay the license fees for the years between the date of the entry of his **or her** name on the inactive list and the date of issuance of his current license. [And, if he] **If the dentist** has been on the inactive list for more than [three] **four** years, **he or she shall** be examined in the same manner as an original applicant for [a certificate of registration] **licensure** as a dentist.

7. A [registered and] currently licensed dentist in Missouri who does not maintain a practice in this state or does not reside in this state may apply to the board to be placed on an out-of-state licensee list of dentists. Any dentist applying to be so [registered and] licensed shall accompany his **or her** application with a fee not greater than the licensure fee for a licensee who maintains a practice in this state or who resides in this state. The required fee shall be established by the board, by rule, as with other licensing fees.

332.261. LICENSE AS DENTAL HYGIENIST, APPLICATION, RENEWAL — CONTINUING EDUCATION REQUIREMENT, EXCEPTION — RENEWAL AND REINSTATEMENT PROCEDURE — OUT-OF-STATE LICENSEE, ELIGIBILITY. — 1. [After a person has received a certificate of registration qualifying him to practice as a dental hygienist in Missouri, he may within one year from the date of his certificate apply for and shall receive a license to practice as a dental

hygienist in Missouri. Application forms shall be furnished to the applicant, and the application shall be accompanied by the dental hygienist license fee.] **No person shall engage in the practice of dental hygiene without having first secured a license as provided for in this chapter.**

2. [The certificate of registration as a dental hygienist issued to any person who fails to apply for a license as herein provided within one year after the date of his certificate of registration shall be void.] **Any person desiring a license to practice dental hygiene in Missouri shall make application to the board on a form prescribed by the board pursuant to section 332.241. An application for licensure shall be active for one year after the date it is received by the board. The application becomes void if not completed within such one-year period.**

3. [Each person who holds a certificate of registration] **All persons once licensed to practice as a dental hygienist in Missouri shall renew his or her license to practice [as a dental hygienist] on or before the renewal date and shall display his or her license for each current licensing period in the office in which he or she practices or offers to practice as a dental hygienist.**

4. **Effective with the licensing period beginning on December 1, 2002, a license shall be renewed every two years.** The board shall not renew [any certificate of registration] **the license** of any hygienist unless the licensee [shall provide] **provides** satisfactory evidence that he **or she** has completed [forty-five] **thirty** hours of continuing education within a [three-year] **two-year** period. **The board may extend the time requirements for completion of the continuing education up to six months for reasons related to health, military service, foreign residency or for other good cause. All requests for extensions of time shall be made in writing and submitted to the board before the renewal date.** The board may waive the requirements for continuing education for retired or disabled hygienists or for other good cause.

5. Any [registered and] licensed dental hygienist who fails to renew his **or her** license on or before the renewal date may apply to the board for [a] renewal of his **or her** license within [five years after the date his license expired, but he] **four years subsequent to the date of the license expiration, provided that any such applicant** shall pay a reinstatement fee for the [new] license.

6. The [certificate of registration] **license** of any dental hygienist who fails to renew [his license within five] **within four** years of the time that his **or her** license [shall have] expired shall be void. [He] **The dental hygienist** may apply for a new [certificate of registration] **license**, provided that, unless [he applies under] **application is made pursuant to** section 332.281, he **or she** shall pay the same fees and be examined in the same manner as an original applicant for [a certificate of registration] **licensure** as a dental hygienist. **A currently licensed dental hygienist in Missouri may apply to the board to be placed on an inactive list of dental hygienists, and during the time his or her name remains on the inactive list, he or she shall not practice as a dental hygienist. If a dental hygienist wishes to be removed from the inactive list, unless he or she applies pursuant to section 332.281, he or she shall apply for a current license and pay the license fees for the years between the date of the entry of his or her name on the inactive list and the date of issuance of his or her current license. If the dental hygienist has been on the inactive list for more than four years, he or she shall be examined in the same manner as an original applicant for licensure as a dental hygienist.**

7. [Any dental hygienist holding a certificate of registration in this state] **A currently licensed dental hygienist in Missouri** who does not practice in this state or who does not reside in this state may apply to the board to be placed on an out-of-state registration list of dental hygienists. Any dental hygienist applying to be so [registered] **licensed** shall accompany his **or her** application with a fee not greater than the license fee for a licensee who practices in this state or resides in this state. The required fee shall be established by the board, by rule, as with other licensing fees.

332.311. DENTAL HYGIENIST TO PRACTICE UNDER DENTIST SUPERVISION ONLY — NO SUPERVISION REQUIRED FOR FLUORIDE TREATMENTS, TEETH CLEANING AND SEALANTS. —

1. Except as provided in subsection 2 of this section, a duly registered and currently licensed dental hygienist may only practice as a dental hygienist so long as the dental hygienist is employed by a dentist who is duly registered and currently licensed in Missouri, or as an employee of such other person or entity approved by the board in accordance with rules promulgated by the board. In accordance with this chapter and the rules promulgated by the board pursuant thereto, a dental hygienist shall only practice under the supervision of a dentist who is duly registered and currently licensed in Missouri, **except as provided in subsection 2 of this section.**

2. A duly registered and currently licensed dental hygienist who has been in practice at least three years and who is practicing in a public health setting may provide fluoride treatments, teeth cleaning and sealants, if appropriate, to children who are eligible for medical assistance, pursuant to chapter 208, RSMo, without the supervision of a dentist. Medicaid shall reimburse any eligible provider who provides fluoride treatments, teeth cleaning, and sealants to eligible children. Those public health settings in which a dental hygienist may practice without the supervision of a dentist shall be established jointly by the department of health and by the Missouri dental board by rule. This provision shall expire on August 28, 2006.

332.321. REFUSAL TO ISSUE OR RENEW, REVOCATION OR SUSPENSION OF LICENSE, GROUNDS FOR, PROCEDURE — ADDITIONAL DISCIPLINARY ACTIONS. — 1. The board may refuse to issue [any certificate of registration or authority, permit or license, or refuse to renew any such certificate of registration or authority, permit or license,] **or renew a permit or license** required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section or the board may, as a condition to issuing or renewing any such [certificate of registration or authority,] permit or license, require a person to submit himself or herself for identification, intervention, treatment or rehabilitation by the well-being committee as provided in section 332.327. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any [certificate of registration or authority,] permit or license required by this chapter or any person who has failed to renew or has surrendered his or her [certificate of registration or authority,] permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any [certificate of registration or authority,] permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; or increasing charges when a patient utilizes a third-party payment program; or for repeated irregularities in billing a third party for services rendered to a patient. For the purposes of this subdivision, irregularities in billing shall include:

(a) Reporting charges for the purpose of obtaining a total payment in excess of that usually received by the dentist for the services rendered;

(b) Reporting incorrect treatment dates for the purpose of obtaining payment;

(c) Reporting charges for services not rendered;

(d) Incorrectly reporting services rendered for the purpose of obtaining payment [which] **that** is greater than that to which the person is entitled;

(e) Abrogating the co-payment or deductible provisions of a third-party payment contract. Provided, however, that this paragraph shall not prohibit a discount, credit or reduction of charges provided under an agreement between the [holder of a license] **licensee** and an insurance company, health service corporation or health maintenance organization licensed pursuant to the laws of this state; or governmental third-party payment program; or self-insurance program organized, managed or funded by a business entity for its own employees or labor organization for its members;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a [certificate of registration or authority,] permit or license or allowing any person to use his or her [certificate of registration or authority,] permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter [granted] **imposed** by another state, **province**, territory, federal agency or country upon grounds for which [revocation or suspension] **discipline** is authorized in this state;

(9) A person is finally adjudicated incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice, by lack of supervision or in any other manner, any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(11) Issuance of a [certificate of registration or authority,] permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate, **permit** or license if so required by this chapter or by any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation [which] **that** is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed. False, misleading or deceptive advertisements or solicitations shall include, but not be limited to:

(a) Promises of cure, relief from pain or other physical or mental condition, or improved physical or mental health;

(b) Any misleading or deceptive statement offering or promising a free service. Nothing herein shall be construed to make it unlawful to offer a service for no charge if the offer is announced as part of a full disclosure of routine fees including consultation fees;

(c) Any misleading or deceptive claims of patient cure, relief or improved condition; superiority in service, treatment or materials; new or improved service, treatment or material; or reduced costs or greater savings. Nothing herein shall be construed to make it unlawful to use any such claim if it is readily verifiable by existing documentation, data or other substantial evidence. Any claim [which] **that** exceeds or exaggerates the scope of its supporting documentation, data or evidence is misleading or deceptive;

(d) Any announced fee for a specified service where that fee does not include the charges for necessary related or incidental services, or where the actual fee charged for that specified service may exceed the announced fee, but it shall not be unlawful to announce only the

maximum fee [which] **that** can be charged for the specified service, including all related or incidental services, modified by the term "up to" if desired;

(e) Any announcement in any form including the term "specialist" or the phrase "limited to the specialty of" unless each person named in conjunction with the term or phrase, or responsible for the announcement, holds a valid Missouri certificate and license evidencing that the person is a specialist in that area;

(f) Any announcement containing any of the terms denoting recognized specialties, or other descriptive terms carrying the same meaning, unless the announcement clearly designates by list each dentist not licensed as a specialist in Missouri who is sponsoring or named in the announcement, or employed by the entity sponsoring the announcement, after the following clearly legible or audible statement: "Notice: the following dentist(s) in this practice is (are) not licensed in Missouri as specialists in the advertised dental specialty(s) of";

(g) Any announcement containing any terms denoting or implying specialty areas [which] **that** are not recognized by the American Dental Association;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(17) Failing to maintain his or her office or offices, laboratory, equipment and instruments in a safe and sanitary condition;

(18) Accepting [or], tendering or paying "rebates" to or "splitting fees" with any other person; provided, however, that nothing herein shall be so construed as to make it unlawful for a dentist practicing in a partnership or as a corporation organized pursuant to the provisions of chapter 356, RSMo, [from distributing] **to distribute** profits in accordance with his or her stated agreement;

(19) Administering, **or** causing or permitting to be administered, nitrous oxide gas in any amount to himself or herself[,], or to another unless [this administration is done] as an adjunctive measure to patient management;

(20) Being unable to practice as a dentist, specialist or hygienist with reasonable skill and safety to patients by reasons of professional incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. In enforcing this subdivision the board shall, after a hearing before the board, upon a finding of probable cause, require the dentist or specialist or hygienist to submit to a reexamination for the purpose of establishing his or her competency to practice as a dentist, specialist or hygienist, which reexamination shall be conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the dentist's, specialist's or hygienist's professional competence by at least three dentists or fellow specialists, or to submit to a mental or physical examination or combination thereof by at least three physicians. One examiner shall be selected by the dentist, specialist or hygienist compelled to take examination, one selected by the board, and one shall be selected by the two examiners so selected. Notice of the physical or mental examination shall be given by personal service or registered mail. Failure of the dentist, specialist or hygienist to submit to the examination when directed shall constitute an admission of the allegations against him or her, unless the failure was due to circumstances beyond his or her control. A dentist, specialist or hygienist whose right to practice has been affected pursuant to this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(a) In any proceeding pursuant to this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against a dentist, specialist or hygienist in any other proceeding. Proceedings pursuant to this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(b) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the following: denying his

or her application for a license; permanently withholding issuance of a license; administering a public or private reprimand; **placing on probation**, suspending or limiting or restricting his or her license to practice as a dentist, specialist or hygienist for a period of not more than five years; revoking his or her license to practice as a dentist, specialist or hygienist; requiring him or her to submit to the care, counseling or treatment of physicians designated by the dentist, specialist or hygienist compelled to be treated; or requiring such person to submit to identification, intervention, treatment or rehabilitation by the well-being committee as provided in section 332.327. For the purpose of this subdivision, "license" includes the certificate of registration, or license, or both, issued by the board.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination:

(1) Censure or place the person or firm named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years; or

(2) [May] Suspend the license, certificate or permit for a period not to exceed three years; or

(3) Revoke the license, certificate, or permit. **In any order of revocation, the board may provide that the person shall not apply for licensure for a period of not less than one year following the date of the order of revocation;** or

(4) Cause the person or firm named in the complaint to make restitution to any patient, or any insurer or third-party payer who shall have paid in whole or in part a claim or payment **for** which they should be reimbursed [for], where restitution would be an appropriate remedy, including the reasonable cost of follow-up care to correct or complete a procedure performed or one [which] **that** was to be performed by the person or firm named in the complaint; or

(5) Request the attorney general to bring an action in the circuit court of competent jurisdiction to recover a civil penalty on behalf of the state in an amount to be assessed by the court.

4. Notwithstanding any other provisions of section 332.071 or of this section, a [duly registered and] currently licensed dentist in Missouri may enter into an agreement with individuals and organizations to provide dental health care, provided such agreement does not permit or compel practices [in violation of this section or violate any other] **that violate any** provision of this chapter.

5. At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either the attorney general or one of the attorney general's assistants designated by the attorney general or other legal counsel to appear and represent the board at each stage of such proceeding or trial until its conclusion.

6. If at any time when any [disciplinary sanctions have] **discipline has** been imposed pursuant to this section or pursuant to any provision of this chapter, the licensee removes himself or herself from the state of Missouri, ceases to be currently licensed pursuant to the provisions of this chapter, or fails to keep the Missouri dental board advised of his or her current place of business and residence, the time of his or her absence, or unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed.

332.324. DONATED DENTAL SERVICES PROGRAM ESTABLISHED — CONTRACT WITH MISSOURI DENTAL BOARD, CONTENTS. — 1. The department of health may contract to establish a donated dental services program, in conjunction with the provisions of section 332.323, through which volunteer dentists, licensed by the state pursuant to this chapter, will provide comprehensive dental care for needy, disabled, elderly and medically-compromised individuals. Eligible individuals may be treated by the volunteer dentists in their private offices. Eligible individuals may not be required to pay any fees or costs, except for dental laboratory costs.

2. The department of health shall contract with the Missouri dental board, its designee or other qualified organizations experienced in providing similar services or programs, to administer the program.

3. The contract shall specify the responsibilities of the administering organization which may include:

(1) The establishment of a network of volunteer dentists including dental specialists, volunteer dental laboratories and other appropriate volunteer professionals to donate dental services to eligible individuals;

(2) The establishment of a system to refer eligible individuals to appropriate volunteers;

(3) The development and implementation of a public awareness campaign to educate eligible individuals about the availability of the program;

(4) Providing appropriate administrative and technical support to the program;

(5) Submitting an annual report to the department that:

(a) Accounts for all program funds;

(b) Reports the number of individuals served by the program and the number of dentists and dental laboratories participating as providers in the program; and

(c) Reports any other information required by the department;

(6) Performing, as required by the department, any other duty relating to the program.

4. The department shall promulgate rules, pursuant to chapter 536, RSMo, for the implementation of this program and for the determination of eligible individuals. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

660.026. FUNDING FOR FEDERALLY QUALIFIED HEALTH CENTERS, USES — REPORT TO THE DIRECTOR. — Subject to appropriation, the director of the department of social services, or the director's designee, may contract with and provide funding support to federally qualified health centers, as defined in 42 U.S.C. Section 1396d(1)(2)(B), in this state. Funds appropriated pursuant to this section shall be used to assist such centers in ensuring that health care, including dental care, and mental health services is available to needy persons in this state. Such funds may also be used by centers for capital expansion, infrastructure redesign or other similar uses if federal funding is not available for such purposes. No later than forty-five days following the end of each federal fiscal year, the centers shall report to the director of the department of social services the number of patients served by age, race, gender, method of payment and insurance status.

SECTION 1. DENTAL PRIMARY CARE AND PREVENTATIVE HEALTH SERVICES. — Dental primary care and preventive health services as authorized in 105.711, RSMo, shall include examinations, cleaning, fluoride treatment, application of sealants, placement of basic restorations and emergency treatment to relieve pain.

SECTION B. EMERGENCY CLAUSE. — Because of the importance of children receiving adequate access to dental care, the repeal and reenactment of sections 167.181, 192.070, 332.072, 332.311 and 332.321, and the enactment of section 332.324 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is

hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 167.181, 192.070, 332.072, 332.311 and 332.321 and the enactment of section 332.324 of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2001

SB 394 [SB 394]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes conveyance of land between the board of governors of Southwest Missouri State University and the Southwest Missouri Ecumenical Center.

AN ACT to authorize the conveyance of certain property between the board of governors of Southwest Missouri State University and the Southwest Missouri Ecumenical Center.

SECTION

1. Conveyance of property by Southwest Missouri State University to Southwest Missouri Ecumenical Center — attorney general to approve form of conveyance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY SOUTHWEST MISSOURI STATE UNIVERSITY TO SOUTHWEST MISSOURI ECUMENICAL CENTER — ATTORNEY GENERAL TO APPROVE FORM OF CONVEYANCE. — 1. The board of governors of Southwest Missouri State University is hereby authorized to convey by warranty deed or other appropriate instrument, as the board determines appropriate, its right, title and interest in the following described real estate identified as Tract I to Southwest Missouri Ecumenical Center, in consideration of a similar conveyance to the board of governors of Southwest Missouri State University of a similarly-sized tract of land owned by Southwest Missouri Ecumenical Center, identified as Tract II, both tracts located west of National Avenue and north of Monroe Street, in Springfield, Greene County, Missouri:

Tract I:

Comprised of Lots 42, 41, and the South 20.18 feet of Lot 40 of Biggs and Gray's Subdivision and being more particularly described as follows:

Beginning at the Southwest corner of Lot 42 said; thence along the East right-of-way of Florence, North 01 50'37" East, 125.42 feet; thence parallel with the South line of Lot 42, South 88 45'25" East, 145.04 feet, to the West line of a 15 foot alley; thence South 01 47'39" West, 125.42 feet, to the Southeast corner of Lot 42; thence along the South line of Lot 42, North 88 46'43" West, 145.15 feet, to the point of beginning. Containing 0.418 acres more or less.

Tract II:

Comprised of Lots 50 and 51 of Biggs and Gray's Subdivision and being more particularly described as follows: Beginning at the Southeast corner of Lot 51 said point lying on the West right-of-way of National Avenue; thence North 88 45'52" West, 175.25 feet, to the Southwest corner of Lot 51; thence North 01 47'39" East, 103.89 feet, to the Northwest corner of Lot 50; thence South 88 44'58" East, 175.13 feet, to the Northeast corner of Lot 50; thence South 01 43'35" West, 103.84 feet, to the point of beginning. Containing 0.418 acres more or less.

2. The attorney general shall approve as to form the instrument of conveyance.

Approved July 10, 2001

SB 406 [SB 406]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Director of Revenue to enter into agreements with foreign countries regarding reciprocal driver's licenses.

AN ACT to repeal section 302.173, RSMo 2000, relating to drivers' examination for licensure, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

302.172. Exchange of drivers' licenses, foreign countries, reciprocal agreements, content.

302.173. Driver's examination required, when — exceptions — procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 302.173, RSMo 2000, is repealed and two new sections enacted in lieu thereof, to be known as sections 302.172 and 302.173, to read as follows:

302.172. EXCHANGE OF DRIVERS' LICENSES, FOREIGN COUNTRIES, RECIPROCAL AGREEMENTS, CONTENT. — **1. The director of revenue is hereby authorized to negotiate and enter into reciprocal agreements or arrangements with foreign countries in order to facilitate the exchange of drivers' licenses.**

2. Such agreements or arrangements shall authorize the department of revenue to allow individuals who possess drivers' licenses from foreign countries to obtain a Missouri drivers' license without requiring such persons to complete the examination as provided in section 302.173 other than a vision test and a test of the applicant's ability to understand highway signs regulating, warning or directing traffic.

302.173. DRIVER'S EXAMINATION REQUIRED, WHEN — EXCEPTIONS — PROCEDURE. — **1. Any applicant for a license, who does not possess a valid license issued pursuant to the laws of this state, another state, or a country which has a reciprocal agreement with the state of Missouri regarding the exchange of licenses pursuant to section 302.172 shall be examined as herein provided. Any person who has failed to renew such person's license on or before the date of its expiration or within six months thereafter must take the complete examination. Any active member of the armed forces, their adult dependents or any active member of the peace corps may apply for a renewal license without examination of any kind, unless otherwise required by sections 302.700 to 302.780, provided the renewal application shows that the previous license had not been suspended or revoked. Any person honorably discharged from the armed forces of the United States who held a valid license prior to being inducted may apply for a renewal license within sixty days after such person's honorable discharge without submitting to any examination of such person's ability to safely operate a motor vehicle over the highways of this state unless otherwise required by sections 302.700 to 302.780, other than the vision test provided in section 302.175, unless the facts set out in the**

renewal application or record of convictions on the expiring license, or the records of the director show that there is good cause to authorize the director to require the applicant to submit to the complete examination. No applicant for a renewal license shall be required to submit to any examination of his or her ability to safely operate a motor vehicle over the highways of this state unless otherwise required by sections 302.700 to 302.780 or regulations promulgated thereunder, other than a test of the applicant's ability to understand highway signs regulating, warning or directing traffic and the vision test provided in section 302.175, unless the facts set out in the renewal application or record of convictions on the expiring license, or the records of the director show that there is good cause to authorize the director to require the applicant to submit to the complete examination. The examination shall be made available in each county. Reasonable notice of the time and place of the examination shall be given the applicant by the person or officer designated to conduct it. The complete examination shall include a test of the applicant's natural or corrected vision as prescribed in section 302.175, the applicant's ability to understand highway signs regulating, warning or directing traffic, the applicant's practical knowledge of the traffic laws of this state, and an actual demonstration of ability to exercise due care in the operation of a motor vehicle of the classification for which the license is sought. When an applicant for a license has a [valid] license from a state which has requirements for issuance of a license comparable to the Missouri requirements **or a license from a country which has a reciprocal agreement with the state of Missouri regarding the exchange of licenses pursuant to section 302.172 and such license has not expired more than six months prior to the date of application for the Missouri license**, the director may waive the **test of the applicant's practical knowledge of the traffic laws of this state, and the** requirement of actual demonstration of ability to exercise due care in the operation of a motor vehicle. If the director has reasonable grounds to believe that an applicant is suffering from some known physical or mental ailment which ordinarily would interfere with the applicant's fitness to operate a motor vehicle safely upon the highways, the director may require that the examination include a physical or mental examination by a licensed physician of the applicant's choice, at the applicant's expense, to determine the fact. The director shall prescribe regulations to ensure uniformity in the examinations and in the grading thereof and shall prescribe and furnish all forms to the members of the highway patrol and to other persons authorized to conduct examinations as may be necessary to enable the officer or person to properly conduct the examination. The records of the examination shall be forwarded to the director who shall not issue any license hereunder if in the director's opinion the applicant is not qualified to operate a motor vehicle safely upon the highways of this state.

2. The director of revenue shall delegate the power to conduct the examinations required for a license or permit to any member of the highway patrol or any person employed by the highway patrol. The powers delegated to any examiner may be revoked at any time by the director of revenue upon notice.

3. Notwithstanding the requirements of subsections 1 and 2 of this section, the successful completion of a motorcycle rider training course approved pursuant to sections 302.133 to 302.138 shall constitute an actual demonstration of the person's ability to exercise due care in the operation of a motorcycle or motortricycle, and no further driving test shall be required to obtain a motorcycle or motortricycle license or endorsement.

Approved July 10, 2001

SB 407 [SCS SB 407]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes several new special license plates and amends law concerning several existing special license plates.

AN ACT to amend chapter 301, RSMo, by adding thereto four new sections, relating to motor vehicle license plates.

SECTION

- A. Enacting clause.
- 301.3035. Missouri Botanical Garden special license plate, application, fees.
- 301.3039. St. Louis Zoo special license plate, application, fees.
- 301.3057. Kansas City Zoo special license plate, application, fees.
- 301.3059. Springfield Zoo special license plate, application, fees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto four new sections, to be known as sections 301.3035, 301.3039, 301.3057 and 301.3059, to read as follows:

301.3035. MISSOURI BOTANICAL GARDEN SPECIAL LICENSE PLATE, APPLICATION, FEES. — 1. Any member of the Missouri Botanical Garden, after an annual payment of an emblem-use authorization fee to the Missouri Botanical Garden, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Botanical Garden hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Botanical Garden derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Botanical Garden. Any member of the Missouri Botanical Garden may annually apply for the use of the emblem.

2. Upon annual application and payment of a thirty-five dollar emblem-use contribution to the Missouri Botanical Garden, the Missouri Botanical Garden shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Missouri Botanical Garden. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the Missouri Botanical Garden's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Botanical Garden's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3039. ST. LOUIS ZOO SPECIAL LICENSE PLATE, APPLICATION, FEES. — 1. Any member of the Saint Louis Zoo, after an annual payment of an emblem-use authorization fee to the Saint Louis Zoo, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Saint

Louis Zoo hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Saint Louis Zoo derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Saint Louis Zoo. Any member of the Saint Louis Zoo may annually apply for the use of the emblem.

2. Upon annual application and payment of a thirty-five dollar emblem-use contribution to the Saint Louis Zoo, the Saint Louis Zoo shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Saint Louis Zoo. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

3. A vehicle owner who was previously issued a plate with the Saint Louis Zoo's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Saint Louis Zoo's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3057. KANSAS CITY ZOO SPECIAL LICENSE PLATE, APPLICATION, FEES. — 1. Any member of the Kansas City Zoo, after an annual payment of an emblem-use authorization fee to the Kansas City Zoo, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Kansas City Zoo hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Kansas City Zoo derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Kansas City Zoo. Any member of the Kansas City Zoo may annually apply for the use of the emblem.

2. Upon annual application and payment of a thirty-five dollar emblem-use contribution to the Kansas City Zoo, the Kansas City Zoo shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Kansas City Zoo. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

3. A vehicle owner who was previously issued a plate with the Kansas City Zoo's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Kansas City Zoo's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3059. SPRINGFIELD ZOO SPECIAL LICENSE PLATE, APPLICATION, FEES. — 1. Any member of the Springfield Zoo, after an annual payment of an emblem-use authorization fee to the Springfield Zoo, may receive special license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Springfield Zoo hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Springfield Zoo derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Springfield Zoo. Any member of the Springfield Zoo may annually apply for the use of the emblem.

2. Upon annual application and payment of a thirty-five dollar emblem-use contribution to the Springfield Zoo, the Springfield Zoo shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Springfield Zoo. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

3. A vehicle owner who was previously issued a plate with the Springfield Zoo's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Springfield Zoo's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

Approved July 10, 2001

SB 430 [SB 430]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the City of St. Louis to establish a band fund.

AN ACT to repeal section 71.640, RSMo 2000, relating to taxation for band funds in certain municipalities, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
- 71.640. Tax for band fund authorized.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 71.640, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 71.640, to read as follows:

71.640. TAX FOR BAND FUND AUTHORIZED. — Any city not within a county, any city, village or town having a population of less than twenty-five thousand and any city having a

population of more than thirty-five thousand located in any county of the first class contiguous to a county of the first class having a charter form of government and not containing any part of a city of over four hundred thousand, howsoever organized, and irrespective of its form of government, may, by one of the two methods authorized in section 71.650, levy a tax for use in providing free band concerts, or equivalent musical service by the band upon occasions of public importance.

Approved June 29, 2001

SB 431 [SCS SB 431]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to convey the rights to certain water held in Mark Twain Lake.

AN ACT to authorize the conveyance of certain state property to the Clarence Cannon Wholesale Water Commission, with an emergency clause.

SECTION

1. Transfer of rights in water and water storage of Mark Twain Lake to Clarence Cannon Wholesale Water Commission.
2. Transfer agreement, amount of water and water storage.
3. Additional transfer of rights of water and water storage.
4. Consideration for transfer of rights.
5. Missouri water development fund created.
6. Attorney general to approve instrument of conveyance.
- A. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. TRANSFER OF RIGHTS IN WATER AND WATER STORAGE OF MARK TWAIN LAKE TO CLARENCE CANNON WHOLESALE WATER COMMISSION. — Notwithstanding any other laws to the contrary, the governor is hereby authorized and empowered to bargain, transfer, and convey to the Clarence Cannon Wholesale Water Commission rights in the water and water storage of Mark Twain Lake acquired by the state of Missouri by contract with the United States of America dated March 10, 1988.

SECTION 2. TRANSFER AGREEMENT, AMOUNT OF WATER AND WATER STORAGE. — An agreement to transfer rights to water and water storage shall immediately convey and transfer one million nine hundred thousand gallons per day of water and its equivalent acre feet of water storage to the Clarence Cannon Wholesale Water Commission in accordance with the contract dated March 10, 1988, by and between the United States of America, Clarence Cannon Wholesale Water Commission, and the state of Missouri.

SECTION 3. ADDITIONAL TRANSFER OF RIGHTS TO WATER AND WATER STORAGE. — The authorization set forth in this section includes the power to convey and transfer rights to water and water storage in an additional amount of up to five million gallons per day and its equivalent acre feet of storage, that portion of the rights to Mark Twain Lake having been conveyed to the state of Missouri by the United States of America by contract dated March 10, 1988.

SECTION 4. CONSIDERATION FOR TRANSFER OF RIGHTS. — Consideration for the transfer of water rights and the rights to water storage in Mark Twain Lake shall

require the Clarence Cannon Wholesale Water Commission to assume the transferred portion of all financial obligations of the state of Missouri to the United States of America as indicated in contract dated March 10, 1988, including all payments for principal and interest due and owed from the date of transfer to Clarence Cannon Wholesale Water Commission forward and into the future until such obligations to the United States are fully paid for that water and water storage acquired by the state of Missouri in Mark Twain Lake.

SECTION 5. MISSOURI WATER DEVELOPMENT FUND CREATED. — If the state receives moneys from Clarence Cannon Wholesale Water Commission pursuant to an agreement under this act, such moneys may be deposited in the "Missouri Water Development Fund", created by section 256.290, RSMo.

SECTION 6. ATTORNEY GENERAL TO APPROVE INSTRUMENT OF CONVEYANCE. — The attorney general shall approve as to form the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because of the need to provide water for residential, commercial, and industrial users in northeast Missouri, sections 1 to 6 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and sections 1 to 6 of this act shall be in full force and effect upon their passage and approval.

Approved May 16, 2001

SB 435 [SB 435]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts historic vehicles from emissions testing.

AN ACT to repeal section 643.315, RSMo 2000, relating to emission requirements for historic vehicles, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

- 643.315. Motor vehicles subject to program, when, exceptions — reciprocity with other states — dealer inspection, return of motor vehicle for failing inspection, options, violation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 643.315, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 643.315, to read as follows:

643.315. MOTOR VEHICLES SUBJECT TO PROGRAM, WHEN, EXCEPTIONS — RECIPROCITY WITH OTHER STATES — DEALER INSPECTION, RETURN OF MOTOR VEHICLE FOR FAILING INSPECTION, OPTIONS, VIOLATION. — 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which are domiciled, registered or primarily operated in an area for which the commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, which may include all motor vehicles owned by residents of a county of the first classification without a charter form of government with a

population of less than one hundred thousand inhabitants according to the most recent decennial census who have chosen to have a biennial motor vehicle registration pursuant to section 301.147, RSMo, shall be inspected and approved prior to sale or transfer. In addition, any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each odd-numbered calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid emissions inspection certificate shall be presented at the time of registration or registration renewal of such motor vehicle.

2. No emission standard established by the commission for a given make and model year shall exceed the lesser of the following:

(1) The emission standard for that vehicle model year as established by the United States Environmental Protection Agency; or

(2) The emission standard for that vehicle make and model year as established by the vehicle manufacturer.

3. The inspection requirement of subsection 1 of this section shall apply to all motor vehicles except:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles if such vehicles are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(3) Model year vehicles prior to 1971;

(4) Vehicles which are powered exclusively by electric or hydrogen power or by fuels other than gasoline which are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(5) Motor vehicles registered in an area subject to the inspection requirements of sections 643.300 to 643.355 which are domiciled and operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, but only if the owner of such vehicle presents to the department an affidavit that the vehicle will be operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355 for the next twenty-four months, and the owner applies for and receives a waiver which shall be presented at the time of registration or registration renewal; [and]

(6) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user; and

(7) Historic motor vehicles registered pursuant to section 301.131, RSMo.

4. The commission may, by rule, allow inspection reciprocity with other states having equivalent or more stringent testing and waiver requirements than those established pursuant to sections 643.300 to 643.355.

5. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of sections 643.300 to 643.355 either:

(a) With prior inspection and approval as provided in subdivision (2) of this subsection; or

(b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to sections 643.300 to 643.355 or by obtaining a waiver pursuant to section 643.335. A vehicle sold pursuant to this subdivision by a licensed motor

vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required pursuant to sections 643.300 to 643.360 for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380, RSMo.

Approved July 10, 2001

SB 436 [SB 436]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires licensee to apply for a duplicate commercial driver's license when a name change occurs.

AN ACT to repeal sections 302.177 and 302.735, RSMo 2000, relating to the issuance of driver's licenses, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 302.177. Licenses, fees, duration, age-based.
- 302.735. Application for commercial license, contents, fee, expiration, duration, duplicate license — new resident, application dates — falsification of information, ineligibility for license, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 302.177 and 302.735, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 302.177 and 302.735, to read as follows:

302.177. LICENSES, FEES, DURATION, AGE-BASED. — 1. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are at least twenty-one years of age **and under the age of seventy**, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a

license upon the payment of a fee of thirty dollars; except that, no license shall be issued if an applicant's license is currently suspended, taken up, canceled, revoked, or deposited in lieu of bail.

2. To all applicants for a license or renewal who are between twenty-one and sixty-nine years of age, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of fifteen dollars; except that, no license shall be issued if an applicant's license is currently suspended, taken up, canceled, revoked, or deposited in lieu of bail.

3. All licenses issued pursuant to subsections 1 and 2 of this section shall expire on the applicant's birthday in the sixth year after issuance and must be renewed on or before the date of expiration, which date shall be shown on the license. The director shall have the authority to stagger the expiration date of driver's licenses and nondriver's licenses being [issue] **issued** or renewed over a six-year period.

4. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are between eighteen and twenty-one years of age **or greater than sixty-nine years of age**, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of fifteen dollars.

5. To all other applicants for a license or renewal less than twenty-one years of age or greater than sixty-nine years of age who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of seven dollars and fifty cents. All licenses issued pursuant to subsections 4 and 5 of this section shall expire on the applicant's birthday in the third year after issuance.

6. The director of revenue may adopt any rules and regulations necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

302.735. APPLICATION FOR COMMERCIAL LICENSE, CONTENTS, FEE, EXPIRATION, DURATION, DUPLICATE LICENSE — NEW RESIDENT, APPLICATION DATES — FALSIFICATION OF INFORMATION, INELIGIBILITY FOR LICENSE, WHEN. — 1. The application for a commercial driver's license shall include, but not be limited to, the legal name, mailing and residence address, if different, a physical description of the person, including sex, height, weight and eye color, the person's Social Security number, date of birth and any other information deemed appropriate by the director.

2. The application for a commercial driver's license or renewal shall be accompanied by the payment of a fee of forty dollars. The fee for a duplicate commercial driver's license shall be twenty dollars. A commercial driver's license shall expire on the applicant's birthday in the sixth year after issuance and must be renewed on or before the date of expiration. The director shall have the authority to stagger the issuance or renewal of commercial driver's license applicants over a six-year period. When a person changes such person's name[, mailing or residence address, such person shall notify the director] **an application for a duplicate license shall be made to the director of revenue. When a person changes such person's mailing address or residence the applicant shall notify the director of revenue of said change, however, no application for a duplicate license is required.** To all applicants for a commercial license or renewal who are between eighteen and twenty-one years of age **and seventy years of age and older**, the application shall be accompanied by a fee of twenty dollars. A commercial license issued pursuant to an applicant less than twenty-one years of age **and seventy years of age and older** shall expire on the applicant's birthday **in** the third year after issuance.

3. Within thirty days after moving to this state, the holder of a commercial driver's license shall apply for a commercial driver's license in this state. The applicant shall meet all other

requirements of sections 302.700 to 302.780, except that the director may waive the driving test for a commercial driver's license as required in section 302.720 if the applicant for a commercial driver's license has a valid commercial driver's license from a state which has requirements for issuance of such license comparable to those in this state.

4. Any person who falsifies any information in an application or test for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's commercial driver's license shall be canceled, for a period of one year after the director discovers such falsification.

Approved July 10, 2001

SB 441 [HCS SB 441]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Warrensburg to receive bids to be the depository of city funds from banks at every regular meeting.

AN ACT to repeal section 95.280, RSMo 2000, relating to cities of the third class, and to enact in lieu thereof one new section relating to the same subject, with penalty provisions.

SECTION

A. Enacting clause.

95.280. Depository for city funds, how selected.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 95.280, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 95.280, to read as follows:

95.280. DEPOSITORY FOR CITY FUNDS, HOW SELECTED. — **1.** Subject to the provisions of section 110.030, RSMo, the city council, at its regular meetings in July of each year, may receive sealed proposals for the deposit of the city funds from banking institutions doing business within the city that desire to be selected as the depository of the funds of the city. Notice that bids will be received shall be published by the city clerk not less than one nor more than four weeks before the meeting, in some newspaper published in the city. Any banking institution doing business in the city, desiring to bid, shall deliver to the city clerk, on or before the day of the meeting, a sealed proposal stating the rate percent upon daily balances that the banking institution offers to pay to the city for the privilege of being the depository of the funds of the city for the year next ensuing the date of the meeting; or, in the event that the selection is made for a less term than one year, as herein provided, then for the time between the date of the bid and the next regular time for the selection of a depository. It is a misdemeanor for the city clerk or other person to disclose directly or indirectly the amount of any bid to any person before the selection of the depository.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the city council of any third class city with a population of more than fifteen thousand and less than nineteen thousand that is located in any county of the fourth classification with a population of more than forty thousand and less than forty-eight thousand three hundred may receive sealed proposals for the deposit of city funds from banking institutions doing business within the city at any of the regular meetings of such city. The city shall send

notice of bids to each banking institution in the city by regular mail at the time the notice is published in the newspaper in subsection 1 of this section. The banking institution selected as the depository shall be offered a depository contract for a maximum of two years. Any such city shall follow the bid procedure established in subsection 1 of this section, except as otherwise provided in this subsection.

Approved July 6, 2001

SB 442 [SB 442]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows individuals to obtain a Safari Club license plate after paying a special fee.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to special license plates for Safari Club International.

SECTION

A. Enacting clause.

301.3081. Safari Club International specialized license plate, issuance, fees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.3081, to read as follows:

301.3081. SAFARI CLUB INTERNATIONAL SPECIALIZED LICENSE PLATE, ISSUANCE, FEES. — 1. Any person may receive license plates as prescribed in this section, for issuance either to passenger motor vehicles subject to the registration fees provided in section 301.055, or for a local or nonlocal property-carrying commercial motor vehicle licensed for a gross weight not in excess of twelve thousand pounds as provided in section 301.057 or 301.058, after an annual payment of an emblem-use authorization fee to Safari Club International. Safari Club International hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Safari Club International derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Safari Club International. Any member of Safari Club International may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Safari Club International, Safari Club International shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fees and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Safari Club International. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Safari Club International emblem authorized by this section but who does not provide an emblem-use

authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Safari Club International emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved July 6, 2001

SB 443 [SB 443]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes the requirement that State Water Patrol officers be bonded.

AN ACT to repeal section 306.165, RSMo 2000, relating to water patrol officers, and to enact in lieu thereof one new section relating to the same subject with an emergency clause.

SECTION

- A. Enacting clause.
- 306.165. Water patrol officer, powers, duties and jurisdiction of.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 306.165, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 306.165, to read as follows:

306.165. WATER PATROL OFFICER, POWERS, DUTIES AND JURISDICTION OF. — Each water [patrolman] **patrol officer** appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his **or her** duties, shall take and subscribe an oath of office to perform [his] **all** duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting him all the powers of a peace officer to enforce all laws of this state, upon all of the following:

- (1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;
 - (2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;
 - (3) All land within three hundred feet of the areas in subdivision (2) of this section;
 - (4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;
 - (5) All land adjoining and within six hundred feet of the rivers and streams of this state;
 - (6) Any other jurisdictional area, pursuant to the provisions of section 306.167. Each water [patrolman] **patrol officer** may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each water [patrolman] **patrol officer** may arrest on view[,] and without a warrant[,] any person he **or she** sees violating or who [he] **such patrol officer** has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his **or her** jurisdiction as provided in this section. [It is further provided that each water patrolman
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shall be bonded in like manner and amount as sheriffs under section 57.020, RSMo.] Each water [patrolman] **patrol officer** shall, within six months after receiving [his] a certificate of appointment, satisfactorily complete a law enforcement training course including six hundred hours of actual instruction conducted by a duly constituted law enforcement agency or any other school approved [under] **pursuant to** chapter 590, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because the effective patrol of Missouri's waters are important to this state, section 306.165 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 306.165 of this act shall be in full force and effect upon its passage and approval.

Approved May 16, 2001

SB 451 [SB 451]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows spending of the Energy Set-aside Program Fund for administration of the energy responsibilities and activities of the Department of Natural Resources.

AN ACT to repeal section 640.665, RSMo 2000, relating to the energy set-aside program fund, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

640.665. Energy set-aside program fund.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 640.665, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 640.665, to read as follows:

640.665. ENERGY SET-ASIDE PROGRAM FUND. — 1. The state treasurer shall establish, maintain, and administer a special trust fund to be administered by the department and to be known as the "Energy Set-aside Program Fund", from which applicants as determined by the department may seek and obtain loans and financial assistance. The department shall determine which applicants shall obtain loans or financial assistance as provided in sections 640.651 to 640.686.

2. All moneys duly authorized and appropriated by the general assembly, all moneys received from federal funds, gifts, bequests, donations or any other moneys so designated, all moneys received pursuant to sections 640.651 to 640.686, and all interest earned on and income generated from moneys in the fund shall be paid to and deposited in the energy set-aside program fund.

3. All principal deposits, as authorized in subsection 2 of this section, and all repayments of loans as specified in subsection 6 of section 640.660, to the energy set-aside program fund shall be available to be issued and reissued for loans and financial assistance as authorized by sections 640.651 to 640.686. After appropriation from the general assembly, the department may expend any fees or interest earned on the energy set-aside program fund for the administration of the [loan programs in sections 640.651 to 640.686] **department's energy responsibilities and activities.**

4. The commissioner of administration shall disburse such moneys from the fund at such times as are authorized by the department.

5. Except as otherwise provided in sections 640.651 to 640.686, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the general revenue fund of the state shall not apply to funds in the energy set-aside program fund.

Approved June 7, 2001

SB 462 [CCS HCS SB 462]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes restriction on cooperative marketing associations dealing with non-members.

AN ACT to repeal sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330, 252.333, 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.150, 272.160, 272.170, 272.180, 272.190, 272.200, 274.060, 278.080, 278.220, 278.240, 278.245, 278.250, 278.280, 278.290, 278.300, 322.010, 348.432, 409.401, 414.032, 578.012 and 578.023, RSMo 2000, and to enact in lieu thereof sixty new sections relating to agriculture, with a penalty provision and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
 - 252.303. Agroforestry program developed — who may develop plan.
 - 252.306. Definitions.
 - 252.309. Incentive payments — agreements with landowners — amount of payments.
 - 252.315. Application for participation — contents — review of application — administrative procedure.
 - 252.321. Agroforestry demonstration areas established.
 - 252.324. Rules and regulations, procedure.
 - 252.330. Payment for planting trees.
 - 252.333. Federal incentive payments for land enrolled in the program, duration.
 - 262.800. Farmland protection act, purpose.
 - 262.801. Farming purposes defined.
 - 262.802. Abeyance of water and sewer assessments, when — applicability — charges, when paid, amount — notice provided, contents — disputes, procedure.
 - 262.805. Notice of agricultural zoning presumed, when — uses of agricultural land — hazards contained on agricultural land.
 - 262.810. Eminent domain, public hearing required before taking property.
 - 272.010. Field to be enclosed by fence.
 - 272.020. Fencing requirements.
 - 272.040. Judge may appoint viewers to view fence — compensation of appointees.
 - 272.050. Persons injuring animals liable for damages, when.
 - 272.060. Division fences — rights of parties in, how determined.
 - 272.070. Duty of judge if owners disagree — apportionment of costs.
 - 272.100. Duties of persons appointed — their fees.
 - 272.110. Division fences to be kept in repair.
 - 272.130. Judgment of associate circuit judge reviewed in same manner as other civil actions.
 - 272.132. Total cost of fence attributable to one landowner, when.
 - 272.134. Agreement for no fence permitted.
 - 272.136. Landowner may exceed lawful fence requirements.
 - 274.060. Powers of associations.
 - 278.080. Establishing commission — members — powers and duties — rulemaking — variances to rules permitted, procedure.
 - 278.220. Watershed district located in more than one district, procedure — certificate recorded, where.
 - 278.240. District board of supervisors to govern watershed district, combined boards to govern, when — trustees of watershed district, how elected, terms — powers of directors — mileage reimbursement authorized.
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- 278.245. Condemnation authorized, when — other powers of governing body or trustees — taxation authorized.
- 278.250. Organization tax — annual tax for watershed district — limitation — levy — collection — lien enforcement — rate of tax — property tax (section 137.073) rate if no levy imposed for year.
- 278.280. Projects, how financed — special assessment appraisers, duties, compensation — assessment resolution, hearings — election — bonds — special levy.
- 278.290. Disestablishment of watershed district, procedure.
- 278.300. State soil and water districts commission to control watershed districts formerly under a disestablished soil and water conservation district.
- 322.010. Definitions.
- 322.140. Animal bite, report to county health department in absence of county rules — investigation of report — responsibility of owner — rulemaking authority.
- 322.145. Liability of owner for animal bite.
- 340.335. Loan repayment program for veterinary graduates — fund created.
- 340.337. Definitions.
- 340.339. Certain areas designated as areas of defined need by board by rule.
- 340.341. Eligibility standards for loan repayment program — rulemaking authority.
- 340.343. Contract for loan repayment, contents — specific practice sites may be stipulated.
- 340.345. Loan repayment to include principal, interest and related expenses — annual limit.
- 340.347. Liability for amounts paid by program, when — breach of contract, amount owed to state.
- 340.350. Rulemaking authority.
- 348.432. New generation cooperative incentive tax credit — definitions — requirements — limitations.
- 407.857. Reimbursement for warranty work performed by certain retail sellers of power equipment.
- 409.401. Definitions.
- 414.032. Requirements, standards, certain fuels — alcohol additives and oxygenate blends, notice to buyer — director may inspect fuels, purpose.
- 414.433. Purchase of biodiesel fuel by school districts — contracts with new generation cooperatives — definitions — rulemaking authority.
- 537.353. Liability for damage or destruction of field crop products, when — court costs awarded, when.
- 578.008. Spreading disease to livestock, crime of — penalty — defenses.
- 578.012. Animal abuse — penalties.
- 578.023. Keeper of dangerous wild animals must register animals, exceptions — penalty.
- 578.029. Knowingly releasing an animal, crime of — penalty.
- 578.414. The crop protection act — director defined.
- 578.416. Prohibited acts.
- 578.418. Violations, penalties — civil actions, when.
- 578.420. Investigation of alleged violations — rulemaking authority.
 - 1. Landowners' right to private water systems and ground source systems.
- 272.150. Saltpeter works to be fenced.
- 272.160. Damages for failure to fence.
- 272.170. Cotton gins to be enclosed.
- 272.180. Cotton seed not to be scattered outside of enclosure.
- 272.190. Penalty for violation.
- 272.200. Lands upon which poisonous crops are planted shall be enclosed — penalty.
 - B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330, 252.333, 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.150, 272.160, 272.170, 272.180, 272.190, 272.200, 274.060, 278.080, 278.220, 278.240, 278.245, 278.250, 278.280, 278.290, 278.300, 322.010, 348.432, 409.401, 414.032, 578.012 and 578.023, RSMo 2000, are repealed and sixty new sections enacted in lieu thereof, to be known as sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330, 252.333, 262.800, 262.801, 262.802, 262.805, 262.810, 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.132, 272.134, 272.136, 274.060, 278.080, 278.220, 278.240, 278.245, 278.250, 278.280, 278.290, 278.300, 322.010, 322.140, 322.145, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, 340.347, 340.350, 348.432, 407.857, 409.401, 414.032, 414.433, 537.353, 578.008, 578.012, 578.023, 578.029, 578.414, 578.416, 578.418, 578.420 and 1, to read as follows:

252.303. AGROFORESTRY PROGRAM DEVELOPED — WHO MAY DEVELOP PLAN. — The department [shall] **may** develop and implement, in cooperation with the University of Missouri

college of agriculture, **the University of Missouri Center for Agroforestry**, the University of Missouri extension service, the Missouri department of natural resources, private industry councils, the United States Department of Agriculture, and the Missouri department of agriculture, an agroforestry program. The program shall be designed to [complement a new or extended federal conservation reserve plan which as part of its provisions allows and encourages] **encourage** the development of a state program of agroforestry, and shall encourage soil conservation and diversifications of the state's agricultural base through the use of trees planted [or otherwise established in lanes with grass strips or row crops or both in between the lanes] **in an agroforestry configuration to accommodate alley cropping, forested-riparian buffers, silvopasture and windbreaks.**

252.306. DEFINITIONS. — As used in sections 252.300 to 252.333, the following terms shall mean:

(1) **"Alley cropping", planting rows of trees at wide spacings and cropping the alleyways;**

(2) "Conservation reserve program", the conservation reserve program authorized by the Federal Food Security Act of 1985, as amended, (Title XII, P.L. 99-198), or its successor program;

[(2)] (3) "Department", the Missouri department of conservation;

[(3)] (4) "Director", the director of the Missouri department of conservation;

[(4)] (5) "Eligible land", agricultural land which is susceptible to soil erosion [and is placed in the federal conservation reserve program as of or after August 28, 1990, or other highly erosive land which is not enrolled in the conservation reserve program, as determined by the director of the department] **that has a recent cropping history, marginal pasture land, land surrounding livestock enclosures and riparian zones;**

(6) **"Eligible practices", single or multiple rows of trees, alone or combined with other plants such as grass, conventional row crops or horticulture crops, and animals located at intervals of distance within or around fields, around livestock enclosures, and along streams and rivers, specifically designed to provide production and environmental enhancement benefits in accordance with the practices identified in section 252.303;**

[(5)] (7) "Enhancement phase", the period of time, not to exceed ten years, immediately following the establishment phase, during which payments are made by the state of Missouri to landowners who use their eligible land for agroforestry purposes as required by the department;

[(6)] (8) "Establishment phase", the period of time during which eligible land is [placed and held in the federal conservation reserve program or a six-month period for other highly erosive land which is not enrolled in the conservation reserve program] **being prepared for planting trees and developing agroforestry practices**, as determined by the director of the department;

(9) **"Forested-riparian buffers", a combination of trees and other vegetation;**

(10) **"Silvopasture", combining trees with forage and livestock;**

(11) **"Windbreaks", planting single or multiple rows of trees for protection and enhanced production of crops and animals.**

252.309. INCENTIVE PAYMENTS — AGREEMENTS WITH LANDOWNERS — AMOUNT OF PAYMENTS. — 1. The director may enter into agreements with individual landowners to make [such] **incentive payments during the enhancement phase** to landowners. Recipients of such payments shall utilize the land for which such payment is made for agroforestry purposes as required by the director [under] **pursuant to** sections 252.300 to 252.333. [In administering such payments, the director may make such agreements with the United States Department of Agriculture as the director deems necessary or appropriate.]

2. The amount of state incentive payment made to a landowner per acre of eligible land shall be [the lesser of:

(1)] an amount which, when added to any cash or in-kind **net** income produced by crops raised on the land, is substantially equal to the amount per acre previously paid or which would have been paid to the landowner under the federal conservation reserve program[; or

(2) An amount less than that provided in subdivision (1) of this subsection, if such lesser amount does not significantly reduce the number of acres for which agroforestry incentive payments are made under this section].

3. If an application made pursuant to section 252.315 is approved by the director, the director shall develop a schedule of annual payments to be made by the state.

4. The state shall not make any payment to a landowner to maintain the use of eligible land during the enhancement phase for agroforestry purposes after ten years have elapsed since the first such incentive payment is made.

252.315. APPLICATION FOR PARTICIPATION — CONTENTS — REVIEW OF APPLICATION — ADMINISTRATIVE PROCEDURE. — 1. To participate in the program, the landowner shall make application to the director in writing. The written application shall show the number of acres to be placed in the program and that the land which is to be placed in the agroforestry program meets the eligibility requirements of this section. The application shall also contain a detailed plan of the landowner's proposal to meet the requirements of sections 252.300 to 252.333, including the type **and number** of [tree] **trees** to be planted, established, or managed, the type of compatible grass [and the row crop or crops to be grown in the alternative strips], **other crops** and such other information as may be deemed necessary. **The number of trees required to satisfy eligibility may vary with agroforestry practice, but in each case shall be a sufficient number to guarantee the success of the practice and shall be consistent with standards established for each practice.**

2. The director shall review each application. In reviewing the application the director shall determine the type or types of soil located in the area of the land proposed to be included in the agroforestry program and shall apply the land capability classification system to determine the potential or limitations of the land for inclusion in the program. Before the director acts upon the application, an on-site inspection shall be made by a representative of the department of conservation or its approved agent. The inspecting representative shall attest to the efficacy of the agroforestry plan to be used, the number of acres to be placed under agroforestry management, the species **and number** of trees to be planted, established, or managed, and [agronomic] **other crop** components of the proposed program. After the report of the on-site inspector and the review by the director, the director shall determine the landowner's eligibility to participate in the agroforestry program and shall determine the amount of cost sharing, including in-kind and labor components, for the landowner. If the director fails to approve an application, the aggrieved landowner may request a hearing before the conservation commission or its authorized representative within thirty days of notice to the landowner of the failure of the conservation department to approve the application, or the landowner may proceed under the provisions of section 536.150, RSMo, as if the act of the conservation department was one not subject to administrative review. If an action is brought pursuant to section 536.150, RSMo, venue shall be in Cole County.

252.321. AGROFORESTRY DEMONSTRATION AREAS ESTABLISHED. — [The director shall develop demonstration agroforestry conservation programs to illustrate to landowners in this state the benefits and advantages of participation in such a program. Demonstration sites shall be selected by the director to involve various soil types and various erosion dangers and shall be geographically located among the major farming areas of the state. The director shall contract with the University of Missouri extension service for the delivery of the demonstration educational component of sections 252.300 to 252.333.] **The University of Missouri center of agroforestry and extension service, in consultation with the director, shall establish**

agroforestry demonstration areas, and develop and deliver the educational components of sections 252.300 to 252.333.

252.324. RULES AND REGULATIONS, PROCEDURE. — 1. The director may promulgate rules and regulations necessary to carry out the provisions of sections 252.300 to 252.333. Before promulgating any such rule, the director shall seek the advice and comments of the University of Missouri college of agriculture, **the University of Missouri Center for Agroforestry**, the University of Missouri extension service, the Missouri department of natural resources, private industry councils, [the United States Department of Agriculture,] the Missouri department of economic development and the Missouri department of agriculture. **The director may seek advice and comments before promulgating rules and regulations from the United States Department of Agriculture and any other entities deemed advisable by the director.** No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536, RSMo.**

2. The Missouri department of conservation may contract with the division of soil and water conservation of the Missouri department of natural resources for any administrative functions required under the provisions of sections 252.300 to 252.333.

252.330. PAYMENT FOR PLANTING TREES. — During the establishment phase, the director may pay for the planting of trees on eligible land which is used for agroforestry pursuant to sections 252.300 to 252.333. Such payment shall be limited to expenses which are determined to be reasonable and necessary by the director, **but shall not exceed seventy-five percent of the cost of establishment.**

252.333. FEDERAL INCENTIVE PAYMENTS FOR LAND ENROLLED IN THE PROGRAM, DURATION. — The director may make incentive payments for agroforestry purposes of land [which is susceptible to soil erosion] **enrolled in this program.** The duration of such payments shall not exceed ten years. The director may also expend funds to plant trees on such land. Such expenditures may include both planting and associated practices as determined by the director.

262.800. FARMLAND PROTECTION ACT, PURPOSE. — Sections 262.800 to 262.810 shall be known and may be cited as the "Farmland Protection Act". The purpose of the farmland protection act shall be to:

- (1) Protect agricultural, horticultural and forestry land;
- (2) Promote continued economic viability of agriculture, horticulture and forestry as a business;
- (3) Promote the continued economic viability of those businesses dependent on providing materials, equipment and services to agriculture, horticulture and forestry;
- (4) Promote quality of life in the agriculture community; and
- (5) Protect owners of property used for farming purposes from unreasonable costs associated with assessments for improvements running across the land.

262.801. FARMING PURPOSES DEFINED. — For purposes of the farmland protection act, "farming purposes" shall be defined as at least three-fourths of the property used for farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry or livestock, breeding, pasturing, training or boarding of equines or mules, and production of poultry or livestock products in an unmanufactured state.

262.802. ABEYANCE OF WATER AND SEWER ASSESSMENTS, WHEN — APPLICABILITY — CHARGES, WHEN PAID, AMOUNT — NOTICE PROVIDED, CONTENTS — DISPUTES, PROCEDURE. — 1. This state or any political subdivision of this state shall hold water and

sewer assessments in abeyance, without interest, until improvements on such property are connected to the water or sewer system for which the assessment was made. However, if a political subdivision requires the property to be connected to the sewer system of the political subdivision pursuant to section 644.027, RSMo, such connection shall not trigger the payment of the assessment.

2. The provisions of this section shall apply only to tracts of real property:

- (1) Comprised of ten or more contiguous acres; and
- (2) Used for farming purposes.

3. At the time improvements on such property are connected to the water or sewer system, the owner shall pay to the political subdivision an amount equal to the proportionate charge for the number of system lines connected to improvements on such property.

4. The owner shall not be charged based on the total cost of running the water or sewer system to or across the owner's real property. Rather, the assessment shall be based on:

- (1) A reasonable hookup charge;
- (2) A proportionate charge for the number of improvements requested to be connected to such assessments in relation to the total capacity of the system; and
- (3) The anticipated proportionate burden to the system.

5. The period of abeyance shall end when the property ceases to be used for farming purposes.

6. When the period of abeyance ends, the assessment is payable in accordance with the terms set forth in the assessment resolution, so long as such terms are not inconsistent with sections 262.800 to 262.810. To the extent that such terms are inconsistent, the provisions of sections 262.800 to 262.810 shall control.

7. All statutes of limitation pertaining to action for enforcement of payment for assessments shall be suspended during the time that any assessment is held in abeyance without interest.

8. In addition to any other federal, state or local requirements concerning assessments for improvements, the political subdivision responsible for assessments shall notify owners of all properties which are proposed to be assessed of the amount proposed to be charged and the terms of payment for each improvement and that the property may be subject to protection according to the provisions of the Missouri farmland protection act.

(1) The notice shall:

(a) Be provided in writing to the owners and all parties of recorded interest, at the address listed on records of the county for the receipt of real property tax statements for such tract of land;

(b) Be sent certified mail, return receipt requested, restricted delivery to addressee;

(c) Clearly state the total amount of the proposed assessment for said parcel of real property;

(d) State in the body of the letter as follows:

"As owners of the property proposed to be assessed, you have one hundred eighty days from the date of receipt of this notice to accept, in writing, the amount of the assessment stated herein or to dispute the amount by filing an action in the circuit court of the county where the real property is located. If your property is comprised of ten or more contiguous acres, your property may be eligible for protection from payment of the assessment under the Missouri Farmland Protection Act as provided in chapter 262, RSMo, and you have sixty days from the date of receipt of this notice to notify (the political subdivision proposing the assessment), in writing, of your intent to claim protection for your property under the Act. Whether or not you claim the protection under the Farmland Protection Act, you have the right to dispute the amount of the assessment in circuit court.";

(e) Owners must be given the address for sending notice to the political subdivision with the letter; and

(f) A copy of the farmland protection act shall be included with the letter.

(2) An owner claiming protection under the farmland protection act does not forfeit the right to contest the amount of the assessment.

9. Any owner of property proposed to be assessed who chooses to dispute the amount of the assessment, shall file an action disputing the amount of the assessment in the circuit court of the county in which the real property subject to the assessment is located. The action disputing the assessment must be filed within one hundred eighty days of receipt of the notice in subsection 8 of this section.

10. Any political subdivision that disputes the applicability of the farmland protection act to property proposed to be assessed shall file an action in the circuit court of the county in which the real property subject to the assessment is located to dispute the applicability of the farmland protection act to said parcel of real property. Such action must be filed within thirty days of receipt of the notice of the claim for protection under the farmland protection act.

11. Nothing in this section shall be construed as diminishing the authority of counties or other political subdivisions to hold assessments in abeyance.

12. The provisions of this section shall not apply to public water supply districts as defined by sections 247.010 to 247.227, RSMo, except that a public water supply district shall not require payment from landowners whose property is crossed to service another tract of land until any improvement on such property is connected to the rural water supply district. At the time such connection is made, the provisions of the farmland protection act shall apply.

13. In a city with a population of at least four hundred thousand located in more than one county, the assessments on a tract of property entitled to protection pursuant to the provisions of the farmland protection act shall be held in abeyance except that an initial payment of an amount not to exceed five hundred dollars per acre of the tract, up to an amount not to exceed ten thousand dollars may be assessed at the time of final judgment concerning the amount of the assessment or upon mutual agreement of the parties as to the amount of the assessment. In all other respects, the provisions of the farmland protection act shall apply.

14. If a political subdivision files any action challenging the constitutionality or to have all or any portion declared null and void or for declaratory judgement of sections 262.800 to 262.810, the state shall be added as a party to any such action and the attorney general of Missouri shall defend such action. Any owner of property that is subject to the provisions of the farmland protection act shall have the right to be apprised of the status of such action. If the property owner requests separate representation in writing, the attorney general may appoint a special assistant attorney general if the property owner asserts an argument in conflict with the arguments asserted by the attorney general. Such special assistant attorney general may continue to represent the property owner for purposes of all appeals. If the political subdivision fails to prevail, whether in whole or in part, in its action, the entire cost of providing representation to the landowner, including reasonable attorney fees and costs, shall be fully reimbursed to the State of Missouri by the political subdivision.

262.805. NOTICE OF AGRICULTURAL ZONING PRESUMED, WHEN — USES OF AGRICULTURAL LAND — HAZARDS CONTAINED ON AGRICULTURAL LAND. — Purchasers of real property within one mile of areas zoned for agriculture or used for farming purposes as defined by the farmland protection act contained in sections 262.800 to 262.810, shall be presumed to have notice of such agriculture zoning or use for farming purposes. Agricultural zoned land or land used for farming purposes may be used for

commercial or hobby operations that may include but is not limited to the following: breeding and rearing of livestock, weaning and treating of livestock, raising and harvesting of crops, application of fertilizers and pesticides, dust, noise, odors, gunfire, burning, extended hours of operation, seasonal operations, timber operations, cultivated and idle land. Agriculture operations typically consist of open and timbered spaces that are private property and are not open to the public or to public access. Agriculture operations contain many hazards, including but not limited to, open water (including ponds, streams, ditches), open pits, brush, brush piles, snakes, untamed and unpredictable animals, electric and barbed fences, storage building and structure, tractors and equipment, and hidden obstacles. Children and adults are not permitted to roam, play or trespass on farm or agriculture property. These activities and conditions may already be regulated by state, federal or local law and nothing herein is meant to exempt such property from any such laws or regulations but is simply notification to purchasers that living in a rural environment does not mean you will live in an environment free of conditions you find irritating, dangerous, or unpleasant.

262.810. EMINENT DOMAIN, PUBLIC HEARING REQUIRED BEFORE TAKING PROPERTY. — Property subject to the farmland protection act shall not be taken in whole or in part by any political subdivision of this state by eminent domain except after a public hearing pursuant to chapter 610, RSMo.

272.010. FIELD TO BE ENCLOSED BY FENCE. — All fields and enclosures **where animals are kept** shall be enclosed by [hedge, or with a fence sufficiently close, composed of posts and rails, posts and palings, posts and planks, posts and wires, palisades or rails alone, laid up in a manner commonly called a worm fence, or of turf, with ditches on each side, or of stone or brick] **a lawful fence as defined in section 272.020.**

272.020. FENCING REQUIREMENTS. — [All hedges shall be at least four feet high, and all fences composed of posts and rails, posts and palings, posts and wire, posts and boards or palisades, shall be at least four and one-half feet high, with posts set firmly in the ground, not more than eight feet apart, and with rails, palings, wire, boards or palisades securely fastened thereto, and placed at proper distances apart, so as to resist horses, cattle, swine and like stock; and fences composed of woven wire, wire netting or wire mesh shall be at least four and one-half feet high, securely fastened to posts, such posts to be set firmly in the ground, and not more than sixteen feet apart, and such woven wire, wire netting or wire mesh to be of sufficient closeness and strength as to resist horses, cattle, swine and like stock; those composed of turf shall be at least four feet high and with ditches on either side at least three feet wide at the top and three feet deep; and what is known as a worm fence shall be at least five feet high to the top of the rider, or if not ridered, shall be five feet to the top rail or pole, and shall be locked with strong rails or poles or stakes; those composed of stone or brick shall be at least four and one-half feet high; provided, that in counties in this state in which swine are restrained from running at large, all fences built of posts set firmly in the ground, not more than sixteen feet apart, and three barbed wires tensely stretched and securely fastened thereto, and the upper wire being substantially four feet from the ground, and the two remaining wires placed at proper distances below to resist horses, cattle and like stock, and all fences built of posts and rails, or posts and slats, with posts set firmly in the ground, not more than ten feet apart, and with three rails or slats securely fastened thereto, and the upper rail or slat being placed substantially four and one-half feet from the ground, and the two remaining rails or slats to each panel being placed at proper distances below to resist horses, cattle and like stock, and all fences built of posts and boards, with posts set firmly in the ground, not more than eight feet apart, and board substantially one inch thick and six inches wide, securely fastened thereto, and the upper board being at least four and one-half feet high, and the remaining boards placed at proper distances below, to resist

horses, cattle and like stock, shall be deemed and held to be a good and lawful fence; provided, that nothing contained in this section shall be so construed as to relieve any railroad company from the obligation of fencing the right-of-way of said company against hogs, sheep, cattle, horses and like stock.] **1. Any fence consisting of posts and wire or boards at least four feet high which is mutually agreed upon by adjoining landowners or decided upon by the associate circuit court of the county is a lawful fence.**

2. All posts shall be set firmly in the ground not more than twelve feet apart with wire or boards securely fastened to such posts and placed at proper distances apart to resist horses, cattle and other similar livestock.

272.040. JUDGE MAY APPOINT VIEWERS TO VIEW FENCE — COMPENSATION OF APPOINTEES. — Upon complaint of [the party injured to any circuit or associate circuit judge of the county, such circuit or] **either party claiming to be injured because of the trespass or taking up of livestock as described in section 272.030, the** associate circuit judge shall, without delay, issue an order to three disinterested householders of the neighborhood, not of kin to either party, reciting the complaint, and requiring them to view the [hedge or] fence where the trespass is complained of, and take memoranda of the same, and appear before the [judge] **court** on the day set for trial; and their evidence shall determine the lawfulness of such fence. **The persons appointed by the associate circuit judge shall be paid twenty-five dollars each per day for the time actually employed which shall be taxed as costs in the case equally against the parties and collected accordingly.**

272.050. PERSONS INJURING ANIMALS LIABLE FOR DAMAGES, WHEN. — If any person [damned for want of such] **who does not maintain a** sufficient [hedge or] fence, shall hurt, wound, lame, kill or destroy, or cause the same to be done by shooting, worrying with dogs, or otherwise, any of the animals in this chapter mentioned, such [persons] **person** shall satisfy the owner in double damages with costs.

272.060. DIVISION FENCES — RIGHTS OF PARTIES IN, HOW DETERMINED. — [Whenever the fence of any owner of real estate, now erected or constructed, or which shall hereafter be erected or constructed, the same being a lawful fence, as defined by sections 272.010 and 272.020, serves to enclose the land of another, or which shall become a part of the fence enclosing the lands of another, on demand made by the person owning such fence, such other person shall pay the owner one-half the value of so much thereof as serves to enclose his land, and upon such payment shall own an undivided half of such fence.] **1. Whenever the owner of real estate desires to construct or repair a lawful fence, as defined by section 272.020, which divides his or her land from that of another, such owner shall give written notice of such intention to the adjoining landowner. The landowners shall meet and each shall construct or repair that portion of the division fence which is on the right of each owner as the owners face the fence line while standing at the center of their common property line on their own property. If the owners cannot agree as to the part each shall construct or keep in repair, either of them may apply to an associate circuit judge of the county who shall forthwith summon three disinterested householders of the township or county to appear on the premises, giving three days' notice to each of the parties of the time and place where such viewers shall meet, and such viewers shall, under oath, designate the portion to be constructed or kept in repair by each of the parties interested and notify them in writing of the same. Such viewers shall receive twenty-five dollars each per day for the time actually employed, which shall be taxed as court costs.**

2. Existing agreements not consistent with the procedure prescribed by subsection 1 of this section shall be in writing, signed by the agreeing parties, and shall be recorded in the office of the recorder of deeds in the county or counties where the fence line is located. The agreement shall describe the land and the portion of partition fences between

their lands which shall be erected and maintained by each party. The agreement shall bind the makers, their heirs and assigns.

272.070. DUTY OF JUDGE IF OWNERS DISAGREE — APPORTIONMENT OF COSTS. — [If the parties interested shall fail to agree as to the value of one-half of such fence, the owner of the fence may apply to a circuit or associate circuit judge of the county, who shall without delay, issue an order to three disinterested householders of the township, not of kin to either party, reciting the complaint, and requiring them to view the fence, estimate the value thereof, and make return under oath to the associate circuit judge on the day named in the order.] **If either party fails to construct or repair his or her portion of the fence in accordance with the provisions of section 272.060 within a reasonable time, the other may petition the associate circuit court of the county to authorize the petitioner to build or repair the fence in a manner to be directed by the court. If the court authorizes such action, the petitioner shall be given a judgment for that portion of the total cost of the fence which is chargeable as the other party's portion of the fence, court costs and reasonable attorney's fees. Any such judgment shall be a lien on the real estate of the party against whom the judgment may be given.**

272.100. DUTIES OF PERSONS APPOINTED — THEIR FEES. — The persons appointed by the associate circuit judge [under sections 272.070 and 272.090] **pursuant to section 272.040** to discharge the duties therein specified, shall receive [one dollar] **twenty-five dollars** each per day for the time actually employed, which[, together with the fees of the associate circuit judge and sheriff,] shall be taxed as costs in the case against the parties [in proportion to their respective interests,] and collected accordingly.

272.110. DIVISION FENCES TO BE KEPT IN REPAIR. — Every person owning a part of a division fence shall keep **his or her portion of** the same in good repair according to the requirements of this chapter, and [when said division fence is a hedge, shall properly trim the same at least once a year, to a height not greater than four and one-half feet, and to a breadth not greater than three feet, and for the purpose of trimming said hedge as aforesaid, he shall have the right to] **may** enter upon any land lying adjacent thereto **for such purpose**. [Either party owning land adjoining a division fence or hedge may, upon the failure of any of the other parties, have all that part of such division fence belonging to such other parties repaired, upon the failure of such other party to do so, such repairing or trimming to be at the cost of the party so failing to repair or trim his part of such fence; and the party so repairing or trimming such hedge shall always throw the brush trimmed off on his own side of such hedge; and upon neglect or refusal to keep said fence in repair, or to keep said hedge trimmed as provided in this section, such owner shall be liable in double damages to the party injured thereby, and such injured party may enforce the collection of such damages by restraining any cattle or other stock that may break in or come upon his enclosure by reason of the failure of such other party to keep his portion of such division fence in repair and proceeding therewith under the provisions of sections 270.010 to 270.200, RSMo.]

272.130. JUDGMENT OF ASSOCIATE CIRCUIT JUDGE REVIEWED IN SAME MANNER AS OTHER CIVIL ACTIONS. — Any person aggrieved by any order or judgment of the associate circuit judge made or entered [under] **pursuant to** the provisions of [sections 272.040, 272.070 and 272.090] **section 272.040 or 272.070** may have the same reviewed in the same manner as other civil actions.

272.132. TOTAL COST OF FENCE ATTRIBUTABLE TO ONE LANDOWNER, WHEN. — **If either of two adjoining landowners does not need a fence, the landowner that needs a fence may build the entire fence and report the total cost to the associate circuit judge who**

shall authorize the cost to be recorded on each deed. Should the landowner that claimed no need for a fence subsequently place livestock against the fence, the landowner that built the fence shall be reimbursed for one-half the construction costs share to be determined as provided in section 272.060.

272.134. AGREEMENT FOR NO FENCE PERMITTED. — Nothing in this chapter shall prevent adjoining landowners from agreeing that no fence is needed between their property.

272.136. LANDOWNER MAY EXCEED LAWFUL FENCE REQUIREMENTS. — Nothing in this chapter shall prevent either of adjoining landowners from building the landowner or the landowner's neighbor's portion of a fence in excess of the lawful fence requirements prescribed by this chapter.

274.060. POWERS OF ASSOCIATIONS. — Each association incorporated under this chapter shall have the following powers:

(1) To engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilization of any agricultural products produced or delivered to it by its members; the manufacturing or marketing of the by-products thereof; any activity in connection with the purchase, hiring or use by its members of supplies, machinery or equipment; in the financing of any such activities; or in any one or more of the activities specified in this section. [No] **The association**[, however, shall handle agricultural products of nonmembers nor furnish supplies to nonmembers, in any business year, to an amount greater in value than the agricultural products or the supplies, as the case may be, as are handled for or furnished to members] **shall do at least twenty-five percent of its business with its members;**

(2) To borrow money without limitation as to amount of corporate indebtedness or liability; and to make advance payments and advances to members;

(3) To act as the agent or representative of any member or members in any of the above mentioned activities;

(4) To buy, lease, hold and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association, or incidental thereto;

(5) To establish, secure, own and develop patents, trademarks and copyrights;

(6) To do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated; or conducive to or expedient for the interest or benefit of the association; to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged or any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter.

278.080. ESTABLISHING COMMISSION — MEMBERS — POWERS AND DUTIES — RULEMAKING — VARIANCES TO RULES PERMITTED, PROCEDURE. — 1. There is hereby established "The State Soil and Water Districts Commission" to administer for this state the soil and water conservation districts provided for by sections 278.060 to 278.300. The state soil and water districts commission shall formulate policies and general programs for the saving of Missouri soil and water by the soil and water conservation districts, and shall give consideration to the districts' needs based on their character; it shall receive and allocate or otherwise expend for the use or benefit of the soil and water conservation districts any funds appropriated by the general assembly for the use or benefit of such districts, including a soil and water conservation cost-share program; it shall receive and properly convey to the soil and water conservation

districts any other form of aid extended to such districts by any other agency of this state, except that any money or other form of aid raised or provided within a soil and water district for the use or benefit of that soil and water district shall be received and administered by the governing body of that soil and water district; it shall exercise other authority conferred upon it and perform other duties assigned to it by sections 278.060 to 278.300; and it shall be the administrative agency to represent this state in these and all other matters arising from the provisions of sections 278.060 to 278.300.

2. The state soil and water districts commission shall be composed of four ex officio members and six farmer members. The six farmer members shall be appointed by the governor of Missouri with the advice and consent of the senate. Three of the farmer members shall reside in the portion of this state which is north of the Missouri River and three of the farmer members shall reside in the portion of this state which is south of the Missouri River. The membership shall be geographically dispersed with no more than one of the farmer members appointed from a state senatorial district. Not more than four of the farmer members shall be from the same political party. The ex officio members shall be the director of the department of natural resources, the director of the department of agriculture, the director of the department of conservation, and the dean of the college of agriculture of the University of Missouri. Each of the six farmer members shall be holding legal title to a farm, and shall be earning at least the principal part of the member's livelihood from a farm, all at the time of appointment to the commission. The farmer members shall each be appointed for a period of three years. All members of the commission serving as of June 27, 2000, may continue to serve the unexpired portion of the member's current term. There is no limitation on the number of terms that any of the farmer members appointed by the governor may serve. If any farmer member vacates his or her term for any reason prior to the expiration of such term, the governor may appoint a farmer member to serve for the remainder of the unexpired term. Each member of the commission shall continue to serve until the member's successor has been duly appointed and qualified.

3. The state soil and water districts commission may call upon the attorney general of the state for such legal services as it may require.

4. At its first meeting in each calendar year, the state soil and water districts commission shall select from its current members a chairman and a vice chairman. The ex officio members shall not have the power to vote on any matter before the commission. A quorum shall consist of four farmer members. For the determination of any matter within the commission's authority, at a meeting comprised of four farmer members, a concurrence of three shall be required. No business of the commission shall be executed in absence of a quorum. Each farmer member of the soil and water commission shall be entitled to expenses, including travel expenses, necessarily incurred in the discharge of his or her duties as a member of this commission. The state soil and water districts commission shall provide for the execution of surety bonds for all of its employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all its proceedings and of all its resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of all its accounts of receipts and disbursements.

5. In addition to the authority and duty herein assigned to the state soil and water districts commission, it shall have the following authority and duty:

- (1) To encourage the formation of soil and water conservation districts in areas where their establishment seems necessary and their administration seems feasible;
- (2) To formulate and fix the rules and procedures for fair and impartial referendums on the establishing or disestablishment of soil and water districts and for fair and impartial selection of soil and water district supervisors;
- (3) To receive petitions for the establishing of soil and water conservation districts as provided in section 278.100; to determine the validity of these petitions; to conduct hearings upon the subject of these petitions; to determine whether the establishment of a soil and water

district as petitioned would be effective in the saving of soil and water within the proposed area, and whether a soil and water district if established could be feasibly administered; and, upon reaching a favorable conclusion on these matters, to call for a referendum on the establishing of the soil and water district as petitioned;

(4) To advise any soil and water conservation district in developing its program for saving the soil and water in order that such district may become eligible for any form of aid from state or federal sources;

(5) Subject to district allocations by the commission and other resources, to provide training, programs and other assistance to soil and water conservation districts to identify programs that respond to the character of the districts' needs;

(6) To obtain or accept the cooperation and financial, technical or material assistance of the United States or any of its agencies, and of this state or any of its agencies, for the work of such soil and water districts;

(7) To enter into agreements with the United States or any of its agencies on policies and general programs for the saving of Missouri soil and water by the extension of federal aid to any soil and water conservation district; to advise any soil and water conservation district; to advise any soil and water conservation district on the amount or kind of federal aid needed for the effective saving of soil and water in that district; to determine within the limits of available funds or other resources the amount or kind of state aid to be used for saving of soil and water in any soil and water conservation district; and to determine the withholding of state aid of any amount or kind from any soil and water conservation district that has failed to follow the policies of the state soil and water districts commission in any matter under the provisions of sections 278.060 to 278.300;

(8) To give such other proper assistance as the soil and water commission may judge to be useful to any soil and water district in the saving of soil and water in that district;

(9) To promulgate such rules and regulations as may be necessary to effectively administer a state-funded soil and water conservation cost-share program. Any rule or portion of a rule promulgated under the authority of sections 278.060 to 278.300 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo.

6. Unless prohibited by any federal or state law, the commission may grant individual variances to any rule or regulation promulgated thereto, upon presentation of adequate proof, that compliance with sections 278.070 to 278.300, or any rule or regulation, standard, requirement, limitation or order of the commission will have an arbitrary and unreasonable impact on landowners participating in soil and water conservation eligible practices. The commission shall promulgate such rules, regulations and administrative guidelines as necessary to effectively administer this section.

278.220. WATERSHED DISTRICT LOCATED IN MORE THAN ONE DISTRICT, PROCEDURE — CERTIFICATE RECORDED, WHERE. — 1. If the proposed [subdistrict] **watershed district** lies in more than one soil and water conservation district, the petition may be presented to the board of soil and water district supervisors of any one of the districts, and the soil and water supervisors of all the districts shall act jointly as a board of soil and water district supervisors with respect **only** to [all] matters concerning the [subdistrict, including its] formation, **consolidation, expansion, disestablishment or eminent domain activities of the watershed district**. They shall organize as a single board for such purposes and shall designate the chairman, vice chairman, and secretary-treasurer to serve for terms of one year. [After organizing, they may continue to meet as a single board for purposes of governing the subdistrict or they may meet as individual county boards and act, individually, on the minutes of meetings of the trustees of the subdistrict, as specified in section 278.240]. A [subdistrict] **watershed district** which lies in more than one soil and water conservation district shall be formed in the same manner and shall have the same powers and duties as a [subdistrict] **watershed district** formed in one soil and water conservation district.

2. Following the entry in the official minutes of the board or boards of soil and water district supervisors of the creation of the [subdistrict] **watershed district**, the soil and water supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the [subdistrict] **watershed district** lies, and with the state soil and water districts commission.

278.240. DISTRICT BOARD OF SUPERVISORS TO GOVERN WATERSHED DISTRICT, COMBINED BOARDS TO GOVERN, WHEN — TRUSTEES OF WATERSHED DISTRICT, HOW ELECTED, TERMS — POWERS OF DIRECTORS — MILEAGE REIMBURSEMENT AUTHORIZED.

— 1. The board of soil and water conservation district supervisors of **the** soil and water conservation district in which the [subdistrict] **watershed district** is formed shall [be the governing body of the subdistrict] **act in an advisory capacity to the watershed district board**. When a [subdistrict] **watershed district** lies in more than one soil and water conservation district, the combined boards of soil and water conservation district supervisors shall [be the governing body] **act in an advisory capacity to the watershed district board**.

2. Five [persons] **landowners** living within the [subdistrict] **watershed district** shall be elected to serve as trustees of the [subdistrict] **watershed district**. The trustees shall be elected by a [majority] vote of [all] landowners participating in the referendum for the establishment of the [subdistrict] **watershed district**, but the date of the election shall not fall upon the date of any regular political election held in the county. The ballot submitting the proposition to form the [subdistrict] **watershed district** shall be so worded as to clearly state that a tax, not to exceed forty cents on one hundred dollars valuation of all real estate within the [subdistrict, will] **watershed district, may** be authorized if the [subdistrict] **watershed district** is formed. In [subdistricts] **watershed districts** formed after September 28, 1977, two trustees shall be elected for a term of six years, two shall be elected for a term of four years, and one shall be elected for a term of two years. Their successors shall be elected for terms of six years. In any district in existence on September 28, 1977, the three trustees holding office shall continue as trustees. At the next scheduled election within the [subdistrict] **watershed district**, two additional trustees shall be elected. One of the additional trustees shall be elected for a term of four years and one shall be elected for a term of six years. Each successor shall be elected for a term of six years. **In case of the death, loss of landowner standing within the watershed district, or resignation from office of any elected watershed district trustee, his or her successor to the unexpired term shall be appointed by the trustees of that watershed district. A trustee may succeed himself or herself by reelection in this office.** The trustees shall elect one of their members as chairman and one of their members as secretary to serve for terms of two years.

3. [If the governing board so designates] The trustees [may] **shall** act in all matters pertaining to the [subdistrict] **watershed district**, except those concerning formation, consolidation, expansion or disestablishment of the [subdistrict] **watershed district**. [All official actions taken by the trustees, however, shall be subject to the ratification of a majority of the governing boards of the individual soil and water conservation districts from which the subdistrict was formed. No actions taken by the trustees shall become effective until ratification of a majority of the governing boards has taken place. At the next regular meeting following any meeting of the trustees, each governing board may place on their agenda for approval or disapproval the actions taken by the trustees. Failure to take action by any board shall be construed as disapproval of all actions taken by the trustees. It shall be the responsibility of the secretary of the trustees to see that each governing board has a copy of the minutes of each meeting held by the trustees at least two days prior to the next regular meetings of these boards. If the governing board shall decide to continue meeting as a single board for purposes of governing the subdistrict, the trustees shall serve as an advisory body only. The trustees shall be reimbursed for mileage expense incurred in the attendance of meetings of the governing body of the subdistrict and shall also be reimbursed for mileage expense incurred in the attendance of meetings of their own members. One trustee per meeting may be reimbursed for mileage

expense incurred in the attendance of meetings of the governing boards of the individual soil and water conservation districts from which the subdistrict was formed.] **It shall be the responsibility of the secretary of the trustees to see that each soil and water district board included in the watershed district is provided a copy of the minutes of each meeting held by the trustees. The trustees shall be reimbursed for expenses incurred relating to the business of the watershed district.**

278.245. CONDEMNATION AUTHORIZED, WHEN — OTHER POWERS OF GOVERNING BODY OR TRUSTEES — TAXATION AUTHORIZED. — [The governing body of the subdistrict or the trustees of the subdistrict, when acting with the approval of the governing body as provided in section 278.240, shall have, in addition to other authority granted in other sections of this law, the following authority in governing subdistricts] **The trustees of the watershed district shall have the following authority:**

(1) To acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, or through condemnation proceedings [in the manner provided in] **pursuant to** chapter 523, RSMo, such lands, easements, or rights-of-way as are needed to carry out any authorized purpose of the [subdistrict] **watershed district**; provided that notwithstanding any provision of law to the contrary, the power of eminent domain shall not be exercised:

(a) Over the protest of any landowner until it is established that acquisition of the land proposed to be condemned is necessary for the purposes of the [subdistrict] **watershed district**; and to sell, lease or otherwise dispose of any of its property or interest therein [in furtherance of the purposes and provisions of] **pursuant to** sections 278.160 to 278.300; **and**

(b) **Unless four trustees vote in favor of the use of such power in such case. Following approval by the trustees, a majority vote of the soil and water supervisors of all the districts included in such watershed district shall also be required prior to any use of the power of eminent domain;**

(2) To construct, repair, enlarge, improve, operate, and maintain such works of improvement as may be necessary for the performance of any of the operations authorized by sections 278.160 to 278.300;

(3) To borrow money and to execute promissory notes and other evidences of debt in connection therewith for payment of the costs and expenses or for carrying out any authorized purpose of such [subdistrict] **watershed district**, and if promissory notes are issued, to execute such mortgages on any property owned by such district, or assign or pledge such revenues or assessments of such [subdistrict] **watershed district** as may be required by the lender as security for the repayment of the loan; and to issue, negotiate, and sell its bonds [as provided in] **pursuant to** section 278.280;

(4) To levy an annual tax and organization tax on the real property within the [subdistrict] **watershed district** subject to the limitations provided in section 278.250 for payment of the costs for carrying out any authorized purpose of such [subdistrict] **watershed district**;

(5) To make assessments on the real property within the [subdistrict] **watershed district** for special benefits to such real property accruing as a result of the construction of any works of improvement by the [subdistrict] **watershed district**.

278.250. ORGANIZATION TAX — ANNUAL TAX FOR WATERSHED DISTRICT — LIMITATION — LEVY — COLLECTION — LIEN ENFORCEMENT — RATE OF TAX — PROPERTY TAX (SECTION 137.073) RATE IF NO LEVY IMPOSED FOR YEAR. — 1. In order to facilitate the preliminary work of the [subdistrict the governing body of the subdistrict or] **watershed district**, the trustees of the [subdistrict, when acting with the approval of the governing body as provided in section 278.240] **watershed district**, may levy an organization tax [of] not to exceed forty cents per one hundred dollars of assessed valuation of all real estate within the [subdistrict] **watershed district**, the proceeds of which may be used for organization and administration expenses of the [subdistrict,] **watershed district** the acquisition of real and

personal property, including easements for rights-of-way, necessary to carry out the purposes of the [subdistrict] **watershed district**. This levy may be made one time only. The organization tax may be imposed [as provided for in] **pursuant to** subsections 4 and 5 of this section.

2. After the [governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in section 278.240,] **watershed district** have obtained agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than sixty-five percent of the lands situated in the [subdistrict] **watershed district**, an annual tax may be imposed for construction, repair, alteration, maintenance and operation of the present and future works of improvement within the boundaries of the [subdistrict] **watershed district** in order to participate in funds from federal sources appropriated for watershed protection and flood prevention. The annual tax may be imposed as provided for in subsections 4 and 5 of this section.

3. Within the first quarter of each calendar year, the trustees for the [subdistrict] **watershed district** shall prepare an itemized budget of the funds needed for administration of the [subdistrict] **watershed district** and for construction, operation and maintenance of works of improvement for the ensuing fiscal year. The budget shall be subject to the approval of the [governing body of the subdistrict as provided in] **watershed district trustees pursuant to** section 278.240.

4. The [governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in section 278.240,] **watershed district, pursuant to section 278.240**, shall make the necessary levy on the assessed valuation of all real estate within the boundaries of the [subdistrict] **watershed district** to raise the needed amounts, but in no event shall the levy exceed forty cents on each one hundred dollars of assessed valuation per annum and, on or before the first day of September of each year, shall certify the rate of levy to the county commission of the county or counties within which the [subdistrict] **watershed district** is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the [subdistrict] **watershed district**, in addition to such other taxes as are levied by the county commission.

5. The body having authority to levy taxes within the county shall levy the taxes provided in this law, and all officials charged with the duty of collecting taxes shall collect the taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected; computation shall be made on the regular tax bills, and when collected shall pay the same to the [subdistrict] **watershed district** ordering its levy and collection or entitled to the same, and the payment of such collections shall be made monthly to the treasurer of the [subdistrict] **watershed district**. The proceeds shall be kept in a separate account by the treasurer of the [subdistrict] **watershed district** and identified by the official name of the [subdistrict] **watershed district** in which the levy was made. Expenditures from the fund shall be made on requisition of the chairman and secretary of the [governing body of the subdistrict or, alternately, on requisition of the chairman of the governing body of the subdistrict and the chairman of the trustees of the subdistrict] **watershed district board of trustees**.

6. All taxes levied under this law, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of general taxes, and no sale of such property to enforce any general tax or other lien shall extinguish the perpetual lien of [subdistrict] **watershed district** taxes.

7. If the taxes levied are not paid as provided in this section, then the delinquent real property shall be sold at the regular tax sale for the payment of the taxes, interest and penalties, in the manner provided by the statutes of the state of Missouri for selling property for the nonpayment of general taxes. If there are no bids at the tax sale for the property so offered, the property shall be struck off to the county or other agency provided by law, and the county or

agency shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes.

8. For purposes of section 22 of article X of the Constitution of Missouri, the tax authorized in the ballot submitting the proposition to form the [subdistrict] **watershed district** under section 278.240, if approved by a majority of the voters on or prior to November 4, 1980, shall be deemed the current levy authorized by law on November 4, 1980, if on that date a levy was not actually imposed or was imposed in a lesser amount. This tax shall also be considered as the 1984 tax for purposes of section 137.073, RSMo, in the event no levy was imposed by the [subdistrict] **watershed district** for that year.

278.280. PROJECTS, HOW FINANCED — SPECIAL ASSESSMENT APPRAISERS, DUTIES, COMPENSATION — ASSESSMENT RESOLUTION, HEARINGS — ELECTION — BONDS — SPECIAL LEVY. —

1. When a plan of work is approved the [governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall then by resolution propose that the cost of all works of improvement contemplated in the plan be paid either by a general levy against all real estate in the [subdistrict] **watershed district**, subject to the limitations of section 278.250, or that such cost be paid by special assessment against lands within the [subdistrict] **watershed district** to be benefited by the installation of the proposed works of improvement, or that such cost be paid by both such general levy and special assessment stating the portion to be paid by each method.

2. If the resolution of financing provides that all or any part of the cost of the works of improvement is to be paid by special assessment of benefits [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall appoint three appraisers, who shall be residents of the state of Missouri, and who shall not be landowners in such [subdistrict] **watershed district**, who shall recommend apportionment of the special assessment to the tracts of land which will receive benefits from the installation of the works of improvement proposed in the plan of work. The appraisers shall have access to all available engineering reports and data pertaining to the works contemplated and may request additional legal counsel or engineering data from a registered professional engineer as found necessary to carry out their duties.

3. The appraisers shall proceed to view the premises and determine the value of all land or other property within or without the [subdistrict] **watershed district**, to be acquired and used for rights-of-way or other works set out in the plan of work; they shall assess the amount of benefits, and the amount of damage if any, that will accrue to each governmental lot, forty-acre tract or other subdivision of land according to ownership, railroad and other rights-of-way, railroad roadways, and other property from carrying out and putting into effect the plan of work heretofore adopted, and shall make written reports of their findings to the [governing board of the subdistrict] **trustees of the watershed district**. Each appraiser so appointed shall be paid [fifteen dollars per day] for his **or her** services and necessary expenses [in addition thereto].

4. Upon receiving the report from the appraisers, [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall prepare a resolution which shall contain a list of the tracts of land found to be benefited and the amount of assessment to be levied against each such tract, except that no such assessment against any tract of land shall exceed the estimated benefits to such land by such project. Such tracts of land shall be legally described and the names of the owners thereof shall be set forth beside the description of each tract so listed. After adopting such resolution [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall fix a time and place for hearing any complaint that may be made as to the benefit to any tract of land appraised, notice of which hearing shall be given by the secretary by publication [as in] **pursuant to** section 278.190. The board **or trustees** at the hearing may alter the benefits to any tract if, in its judgment, the same has been appraised too high or too low. The

hearing shall be conducted in the manner set forth in section 278.200. The [governing body or the] trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall immediately after the hearing pass a resolution fixing the benefit assessment as to each tract of land.

5. After the resolution fixing the benefit assessment has been adopted [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall submit the proposal for collection of such assessed benefits to the owners of the lands so assessed for approval and if bonds are to be issued the amount of the issue so proposed, the rate of interest, and the amount of any necessary tax levy in excess of the amount authorized in section 278.250. If two-thirds of the owners of such lands voting favor the proposal as submitted, it shall be adopted. The provisions of sections 278.190 to 278.210 as to notice and procedure shall apply to the referendum held [under] **pursuant to** this section.

6. The [governing body or the] trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall make the necessary general levy against all real estate in the [subdistrict] **watershed district** and the special assessment against lands within the [subdistrict] **watershed district** to be benefited by the improvement and shall certify the rate of levy and the amount of the special assessment to the county commission of the county or counties in which the [subdistrict] **watershed district** is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the [subdistrict] **watershed district** and shall levy the amount of the special assessment, in addition to such other taxes as are levied by the county commission.

7. The bond issue, authorized by this section in whole or part, may be offered for sale to the [Farmers Home Administration] **United States Department of Agriculture's Rural Development** or other federal agency without public offering or the securing of competitive bids on such bond offering.

278.290. DISESTABLISHMENT OF WATERSHED DISTRICT, PROCEDURE. — 1. After a [subdistrict] **watershed district** has been organized for more than five years and [said subdistrict] **that watershed district** does not have any outstanding bonds, has not constructed or contracted to construct any works of improvement, nor incurred any continuing obligations for maintenance and operation of any works of improvement or if any works of improvement have been constructed, if there are no bonds outstanding, and an agency of the United States government or the state of Missouri or a county or municipal corporation of this state has made arrangements satisfactory to the Secretary of Agriculture and the state soil and water districts commission to assume responsibility for operating and maintaining such improvement, not less than fifty percent of the landowners of the [subdistrict] **watershed district** may petition the governing body of the [subdistrict] **watershed district** to call for and conduct a referendum upon the disestablishment of the [subdistrict] **watershed district**. If sixty-five percent of the landowners voting in referendum do vote in favor of the disestablishment of the [subdistrict] **watershed district**, the [governing body] **watershed district board** shall declare the [subdistrict] **watershed district** to be disestablished; however, prior to any such declaration the [governing body] **watershed district board** shall pay or make arrangements to pay any outstanding indebtedness. The provisions of sections 278.190, 278.200 and 278.210 as to notice, qualification of voters and manner of holding the referendum in organizing a [subdistrict] **watershed district** to the extent practicable shall apply to the referendum held [under] **pursuant to** this section.

2. Following the entry in the official minutes of the board or boards of [soil and water conservation] **watershed district** supervisors of the disestablishment of the [subdistrict]

watershed district, the [soil and water conservation] **watershed** district supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the [subdistrict] **watershed district** lies, and with the state soil and water districts commission.

3. Whenever a [subdistrict] **watershed district** is declared to be disestablished, the respective boards of supervisors of the soil and water conservation districts in which the [subdistrict] **watershed district** was formed shall take charge of all property and funds of the [subdistrict] **watershed district**. After all property has been sold and the obligations of the [subdistrict] **watershed district** are met, any remaining funds shall be turned over to the county commissions of the respective counties.

278.300. STATE SOIL AND WATER DISTRICTS COMMISSION TO CONTROL WATERSHED DISTRICTS FORMERLY UNDER A DISESTABLISHED SOIL AND WATER CONSERVATION DISTRICT. — If a soil and water conservation district is disestablished [as provided by] **pursuant to section 278.150**, the state soil and water districts commission shall [become the governing body of any subdistrict] **have the same responsibilities as the soil and water conservation district with respect to formation, consolidation and disestablishment of any watershed district** or portion thereof, organized within the boundaries of such soil and water conservation districts [and shall be entitled to all benefits and powers heretofore granted to such governing body by sections 278.160 to 278.300, including the levy and collection of taxes]. **In all other matters after a district is disestablished, the commission shall act in an advisory capacity to the watershed district board in lieu of the soil and water district board.**

322.010. DEFINITIONS. — For the purpose of sections 322.010 to [322.080] **322.145**, the following words and following phrases shall be considered and held to mean the following:

(1) "Affected with rabies" [shall mean when manifesting the principal characteristic symptoms of rabies as described in the standard textbooks treating upon the diseases of domestic animals], infected with the rabies virus as determined by standard laboratory testing;

(2) "Exposed to rabies" [shall mean], when bitten by, or fought with, or has come in close contact with a dog [showing symptoms of rabies] **or other animal shown to be infected with the rabies virus as determined by standard laboratory testing;**

(3) "Immunized" [shall mean], immunized against rabies at the expense of the owner or custodian by the administration of antirabic virus by a licensed veterinarian; [and]

(4) "Rabies" [shall mean], hydrophobia; **and**

(5) "Zoonotic disease", **a dangerous disease communicable from animals to humans as determined by the department of health.**

322.140. ANIMAL BITE, REPORT TO COUNTY HEALTH DEPARTMENT IN ABSENCE OF COUNTY RULES — INVESTIGATION OF REPORT — RESPONSIBILITY OF OWNER — RULEMAKING AUTHORITY. — **1.** If a county does not adopt rules and regulations pursuant to sections 322.090 to 322.130, whenever an animal bites or otherwise possibly transmits rabies or any zoonotic disease, the incident shall be immediately reported to the county health department. The county health department shall immediately report the incident to the department of health and shall cooperate fully with the department of health in its investigation.

2. Upon receipt of an incident report where an animal bites or otherwise possibly transmits rabies or any zoonotic disease, the department of health shall investigate the incident and shall have discretion to order the animal quarantined, isolated, impounded, tested, immunized or disposed of to prevent and control rabies or zoonotic disease.

3. With regard to exposure to rabies or zoonotic disease the department of health shall, in its investigation and issuance of its order, consider the following:

(1) Prior vaccinations for rabies or zoonotic disease;

- (2) The degree of exposure to rabies or zoonotic disease;
- (3) The history and prior behavior of the animal prior to exposure;
- (4) The availability and effectiveness of human post-exposure immunization for rabies or zoonotic disease;
- (5) The willingness of the individual so exposed to submit to post-exposure immunization for rabies or zoonotic disease; and
- (6) Any other relevant information.

4. It shall be unlawful for the owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease to knowingly fail or refuse to comply with a lawful order of the department of health declaring a quarantine, isolation, impounding, testing, immunization or disposal of an animal. It shall also be unlawful for an owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease to sell, give away, transfer, transport to another area or otherwise dispose of an animal until the animal has been released by the department of health. A violation of this subsection shall be a class A misdemeanor.

5. The owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease shall be responsible for all costs associated with the incident, including:

- (1) The cost to test the animal for rabies or zoonotic disease;
- (2) The cost to test the exposed person for rabies or zoonotic disease; and
- (3) The cost to treat the person exposed to rabies or zoonotic disease.

6. The department of health shall have authority to promulgate rules and regulations concerning the classification of disease as a zoonotic disease. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

322.145. LIABILITY OF OWNER FOR ANIMAL BITE. — The owner of an animal that bites or otherwise possibly transmitted rabies or any zoonotic disease shall be liable to an injured party for all damages done by the animal.

340.335. LOAN REPAYMENT PROGRAM FOR VETERINARY GRADUATES — FUND CREATED. — 1. Sections 340.335 to 340.350 establish a loan repayment program for graduates of approved veterinary medical schools who practice in areas of defined need and shall be known as the "Large Animal Veterinary Medicine Loan Repayment Program".

2. The "Large Animal Veterinary Medicine Loan Repayment Program Fund" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 340.347 and all funds generated by loan repayments and penalties received pursuant to section 340.347 shall be credited to the fund. The moneys in the fund shall be used by the Missouri veterinary medical board to provide loan repayments pursuant to section 340.343 in accordance with sections 340.335 to 340.350.

340.337. DEFINITIONS. — As used in sections 340.335 to 340.350, the following terms shall mean:

- (1) "Areas of defined need", areas designated by the board pursuant to section 340.339, when services of a large animal veterinarian are needed to improve the client-doctor ratio in the area, or to contribute professional veterinary services to an area of economic impact;

(2) "Board", the Missouri veterinary medical board;

(3) "Large animal veterinarian", veterinarians licensed and registered pursuant to this chapter, engaged in general or large animal practice as their primary specialties, and who have at least fifty percent of their practice devoted to large animal veterinary medicine.

340.339. CERTAIN AREAS DESIGNATED AS AREAS OF DEFINED NEED BY BOARD BY RULE.

— The board shall designate counties, communities or sections of rural areas as areas of defined need as determined by the board by rule.

340.341. ELIGIBILITY STANDARDS FOR LOAN REPAYMENT PROGRAM — RULEMAKING AUTHORITY. — 1. The board shall adopt and promulgate rules establishing standards for determining eligible persons for loan repayment pursuant to sections 340.335 to 340.350. Such standards shall include, but are not limited to the following:

- (1) Citizenship or permanent residency in the United States;
 - (2) Residence in the state of Missouri;
 - (3) Enrollment as a full-time veterinary medical student in the final year of a course of study offered by an approved educational institution in Missouri;
 - (4) Application for loan repayment.
2. The board shall not grant repayment for more than five veterinarians each year.

340.343. CONTRACT FOR LOAN REPAYMENT, CONTENTS — SPECIFIC PRACTICE SITES MAY BE STIPULATED. — 1. The board shall enter into a contract with each individual qualifying for repayment of educational loans. The written contract between the board and an individual shall contain, but not be limited to, the following:

- (1) An agreement that the state agrees to pay on behalf of the individual, loans in accordance with section 340.345 and the individual agrees to serve for a time period equal to five years, or such longer period as the individual may agree to, in an area of defined need, such service period to begin within one year of the signed contract or graduation by the individual with a degree of doctor of veterinary medicine, whichever is later;
- (2) A provision that any financial obligations arising out of a contract entered into and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments;
- (3) The area of defined need where the person will practice;
- (4) A statement of the damages to which the state is entitled for the individual's breach of the contract;
- (5) Such other statements of the rights and liabilities of the board and of the individual not inconsistent with sections 340.335 to 340.350.

2. The board may stipulate specific practice sites contingent upon board generated large animal veterinarian need priorities where applicants shall agree to practice for the duration of their participation in the program.

340.345. LOAN REPAYMENT TO INCLUDE PRINCIPAL, INTEREST AND RELATED EXPENSES — ANNUAL LIMIT. — 1. A loan payment provided for an individual pursuant to a written contract under the large animal veterinary medicine loan repayment program shall consist of payment on behalf of the individual of the principal, interest and related expenses on government and commercial loans received by the individual for tuition, fees, books, laboratory and living expenses incurred by the individual.

2. For each year of obligated services that an individual contracts to serve in an area of defined need, the board may pay up to ten thousand dollars on behalf of the individual for loans described in subsection 1 of this section.

3. The board may enter into an agreement with the holder of the loans for which repayments are made under the large animal veterinary medicine loan repayment

program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the state.

4. Any qualifying communities providing a portion of a loan repayment shall be considered first for placement.

340.347. LIABILITY FOR AMOUNTS PAID BY PROGRAM, WHEN — BREACH OF CONTRACT, AMOUNT OWED TO STATE. — 1. An individual who has entered into a written contract with the board or an individual who is enrolled in a course of study and fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study or fails to become licensed pursuant to this chapter within one year after graduation shall be liable to the state for the amount which has been paid on such individual's behalf pursuant to the contract.

2. If an individual breaches the written contract of the individual by failing either to begin such individual's service obligation or to complete such service obligation, the state shall be entitled to recover from the individual an amount equal to the sum of:

(1) The total of the amounts paid by the state on behalf of the individual, including interest; and

(2) An amount equal to the unserved obligation penalty, which is the total number of months of obligated service which were not completed by an individual, multiplied by five hundred dollars.

3. The board may act on behalf of a qualified community to recover from an individual described in subsections 1 and 2 of this section the portion of a loan repayment paid by such community for such individual.

340.350. RULEMAKING AUTHORITY. — No rule or portion of a rule promulgated pursuant to the authority of sections 340.335 to 340.350 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

348.432. NEW GENERATION COOPERATIVE INCENTIVE TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) "Employee qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least one hundred employees;

(5) "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

(6) "Member", a person, partnership, corporation, trust or limited liability company that invests cash funds to an eligible new generation cooperative;

[(5)] (7) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

(8) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and subsequent tax years, any member who invests cash funds in an eligible new generation cooperative may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such member's investment or fifteen thousand dollars.

4. A member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed for the taxable year in which the member contributes capital to an eligible new generation cooperative. Any amount of credit that exceeds the tax due for a member's taxable year may be carried back to any of the member's three prior taxable years and carried forward to any of the member's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred [or], sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. [At least] Ten percent of the tax credits authorized pursuant to this section **initially** shall be offered in any fiscal year to **small capital** projects [with capital costs of no more than one million dollars]. If [the amount of tax credits allowed pursuant to this section exceeds the amount needed for such smaller projects, the remaining] **any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered [for projects with capital costs in excess of one million dollars] to employee qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.**

6. [If members of a project would be eligible for tax credits in excess of one million five hundred thousand dollars, tax credits authorized pursuant to this section shall be prorated between the members on a percent of investment basis, not to exceed the maximum allowed per member.] **Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If authority approves the maximum tax credit allowed for any employee qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee qualified capital projects and large capital projects.**

407.857. REIMBURSEMENT FOR WARRANTY WORK PERFORMED BY CERTAIN RETAIL SELLERS OF POWER EQUIPMENT. — Retailers who sell and service industrial, maintenance and construction power equipment or outdoor power equipment as defined in section 407.850, and who do warranty repair work for a consumer under provisions of a manufacturer's express warranty, shall be reimbursed by the manufacturer for the

warranty work at an hourly rate that is the same or greater than the hourly labor rate the retailer currently charges consumers for nonwarranty repair work.

409.401. DEFINITIONS. — When used in sections 409.101 to 409.419, unless the context otherwise requires:

- (a) "Commissioner" means the commissioner of securities.
- (b) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents (1) an issuer in (a) effecting transactions in a security exempted by clause (1), (2), (3), (4), (6), (9), (10) or (11) of section 409.402(a), (b) effecting transactions in a security exempted by clause (5) of section 409.402(a), provided such individual prior to the transactions files with the commissioner information on (A) his relationship to the issuer and its affiliates, (B) his proposed methods of soliciting the transactions including sales literature to be used, and (C) commissions and other remuneration he is to receive for effecting the transactions, and such additional information as the commissioner may require, (c) effecting transactions exempted by section 409.402(b), (d) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state, (e) effecting transactions in a covered security as described in sections 18(b)(3) and 18(b)(4)(D) of the Securities Act of 1933; (2) a broker-dealer in effecting transactions in this state limited to those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934; or (3) effecting transactions with such other persons as the commissioner may by rule or order designate. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition.
- (c) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include (1) an agent, (2) an issuer, (3) a bank, savings institution, or trust company, or (4) a person who has no place of business in this state if (A) he effects transactions in this state exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (B) the person has fewer than five clients in the state of Missouri, or (5) such other persons as the commissioner may by rule or order designate.
- (d) "Federal covered adviser" means a person who is (1) registered pursuant to section 203 of the Investment Advisers Act of 1940; or (2) is excluded from the definition of "investment adviser" pursuant to section 202(a)(11) of the Investment Advisers Act of 1940.
- (e) "Federal covered security" means any security that is a covered security pursuant to section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder.
- (f) "Fraud", "deceit", and "defraud" are not limited to common-law deceit.
- (g) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.
- (h) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation; except that "investment adviser" does not include (1) an investment adviser representative; (2) a bank, savings institution, or trust company; (3) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of

his profession; (4) a broker-dealer or his agent whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them; (5) a publisher of any bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client; (6) any person that is a federal covered adviser; or (7) such other persons not within the intent of this subsection as the commissioner may by rule or order designate.

(i) "Investment adviser representative" means any partner, officer, director or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who is employed by or associated with an investment adviser that is registered or required to be registered pursuant to sections 409.101 to 409.419, or who has a place of business located in this state and is employed by or associated with a federal covered adviser; and who does any of the following: (1) makes any recommendations or otherwise renders advice regarding securities, except that investment adviser representative does not include an individual whose performance of these services is solely incidental to the conduct of his business as an "agent" of a broker-dealer and who receives no special compensation for them, (2) manages accounts or portfolios of clients, (3) determines which recommendation or advice regarding securities should be given, or (4) supervises employees who perform any of the foregoing.

(j) "Issuer" means any person who issues or proposes to issue any security, except that (1) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and (2) with respect to certificates of interest or participation in oil, gas, or mining titles or leases, or in payments out of production under such titles or leases there is not considered to be any "issuer".

(k) "Non-issuer" means not directly or indirectly for the benefit of the issuer.

(l) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(m) (1) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

(2) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(4) A purported gift of assessable stock is considered to involve an offer and sale.

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(6) The terms defined in this subsection do not include (A) any bona fide pledge or loan; (B) any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; (C) any act incident to a class vote by stockholders, pursuant to the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or (D) any act incident to a judicially approved reorganization

in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

(n) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", "Investment Advisers Act of 1940", and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1968.

(o) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; limited partnership interest; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

(p) "State" means any state, territory, or possession of the United States, the District of Columbia and Puerto Rico.

(q) "Cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing and/or furnishing farm supplies and/or farm business services; provided, however, that such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements: (1) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, and (2) the association does not pay dividends on stock or membership capital in excess of eight percent per year, and in any case to the following: (3) the association does [not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members] **at least twenty-five percent of its business with its members**; further, all business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.

414.032. REQUIREMENTS, STANDARDS, CERTAIN FUELS — ALCOHOL ADDITIVES AND OXYGENATE BLENDS, NOTICE TO BUYER — DIRECTOR MAY INSPECT FUELS, PURPOSE. — 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of ASTM standards and supplements thereto. The director may promulgate rules and regulations on the labeling, standards for, and identity of motor fuels and heating oils.

2. All sellers of motor fuel which has been blended with an alcohol additive shall notify the buyer of same.

3. **All sellers of motor fuel which has been blended with at least one percent oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may or may not contain the oxygenate. The department of agriculture shall provide the sticker or label, which shall be reasonable in size and content, at no cost to the sellers.**

4. The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to insure that these fuels conform to advertised grade and octane. **In no event shall the penalty for a first violation of this section exceed a written reprimand.**

414.433. PURCHASE OF BIODIESEL FUEL BY SCHOOL DISTRICTS — CONTRACTS WITH NEW GENERATION COOPERATIVES — DEFINITIONS — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms mean:

- (1) "B-20", a blend of two fuels of twenty percent by volume biodiesel and eighty percent by volume petroleum-based diesel fuel;
- (2) "Biodiesel", as defined in ASTM Standard PS121 or its subsequent standard specification for biodiesel fuel (B 100) blend stock for distillate fuels;
- (3) "Eligible new generation cooperative", a nonprofit farmer-owned cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility, as defined in section 348.430, RSMo.

2. Beginning with the 2002-2003 school year and lasting through the 2005-2006 school year, any school district may contract with an eligible new generation cooperative to purchase biodiesel fuel for its buses of a minimum of B-20 under conditions set out in subsection 3 of this section.

3. Every school district that contracts with an eligible new generation cooperative for biodiesel pursuant to subsection 2 of this section shall receive an additional payment through its state transportation aid payment pursuant to section 163.161, RSMo, so that the net price to the contracting district for biodiesel will not exceed the rack price of regular diesel. If there is no incremental cost difference between biodiesel above the rack price of regular diesel, then the state school aid program will not make payment for biodiesel purchased during the period where no incremental cost exists. The payment shall be made based on the incremental cost difference incrementally up to seven-tenths percent of the entitlement authorized by section 163.161, RSMo, for the 1998-1999 school year. The payment amount may be increased by four percent each year during the life of the program. No payment shall be authorized pursuant to this subsection or contract required pursuant to subsection 2 of this section if moneys are not appropriated by the general assembly.

4. The department of elementary and secondary education shall promulgate such rules as are necessary to implement this section, including but not limited to a method of calculating the reimbursement of the contracting school districts and waiver procedures if the amount appropriated does not cover the additional costs for the use of biodiesel. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

537.353. LIABILITY FOR DAMAGE OR DESTRUCTION OF FIELD CROP PRODUCTS, WHEN — COURT COSTS AWARDED, WHEN. — 1. Any person or entity who knowingly damages or destroys any field crop product that is grown for personal or commercial purposes, or for testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility, a university, or any federal, state or local government agency, shall be liable for double damages pursuant to this section.

2. In awarding damages pursuant to this section, the courts shall consider the following:

- (1) The market value of the crop prior to damage or destruction; and
- (2) The actual damages involving production, research, testing replacement and crop development costs directly related to the crop that has been damaged or destroyed.

3. In addition, the court may award court costs, including reasonable attorneys fees.

578.008. SPREADING DISEASE TO LIVESTOCK, CRIME OF — PENALTY — DEFENSES. —

1. A person commits the crime of spreading disease to livestock or animals if that person purposely spreads any type of contagious, communicable or infectious disease among livestock as defined in section 267.565, RSMo, or other animals.

2. Spreading disease to livestock or animals is a class D felony unless the damage to livestock or animals is ten million dollars or more in which case it is a class B felony.

3. It shall be a defense to the crime of spreading disease to livestock or animals if such spreading is consistent with medically recognized therapeutic procedures.

578.012. ANIMAL ABUSE — PENALTIES. — 1. A person is guilty of animal abuse when a person:

(1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030, RSMo;

(2) Purposely or intentionally causes injury or suffering to an animal; or

(3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

[3. For purposes of this section, "animal" shall be defined as a mammal.]

578.023. KEEPER OF DANGEROUS WILD ANIMALS MUST REGISTER ANIMALS, EXCEPTIONS — PENALTY. — 1. No person may keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, **bear, nonhuman primate**, [or] coyote, [or] any deadly, dangerous, or poisonous reptile, **or any deadly or dangerous reptile over eight feet long**, in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless such person has registered such animals with the local law enforcement agency in the county in which the animal is kept.

2. Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

578.029. KNOWINGLY RELEASING AN ANIMAL, CRIME OF — PENALTY. — 1. A person commits the crime of knowingly releasing an animal if that person, acting without the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.

2. As used in this section "animal" means every living creature, domesticated or wild, but not including *Homo sapiens*.

3. The provisions of this section shall not apply to a public servant acting in the course of such servant's official duties.

4. Intentionally releasing an animal is a class B misdemeanor except that the second or any subsequent offense is a class D felony.

578.414. THE CROP PROTECTION ACT — DIRECTOR DEFINED. — Sections 578.414 to 578.420 shall be known and may be cited as "The Crop Protection Act". As used in sections 578.414 to 578.420, the term "director" shall mean the director of the department of agriculture.

578.416. PROHIBITED ACTS. — No person shall:

- (1) Intentionally cause the loss of any crop;
- (2) Damage, vandalize, or steal any property in or on a crop;
- (3) Obtain access to a crop by false pretenses for the purpose of performing acts not authorized by the landowner;
- (4) Enter or otherwise interfere with a crop with the intent to destroy, alter, duplicate or obtain unauthorized possession of such crop;
- (5) Knowingly obtain, by theft or deception, control over a crop for the purpose of depriving the rightful owner of such crop, or for the purpose of destroying such crop;
- (6) Enter or remain on land on which a crop is located with the intent to commit an act prohibited by this section.

578.418. VIOLATIONS, PENALTIES — CIVIL ACTIONS, WHEN. — 1. Any person who violates section 578.416:

- (1) Shall be guilty of a misdemeanor for each such violation unless the loss or damage to the crop exceeds five hundred dollars in value;
- (2) Shall be guilty of a class D felony if the loss or damage to the crop exceeds five hundred dollars in value but does not exceed one thousand dollars in value;
- (3) Shall be guilty of a class C felony if the loss or damage to the crop exceeds one thousand dollars in value but does not exceed one hundred thousand dollars in value;
- (4) Shall be guilty of a class B felony if the loss or damage to the crop exceeds one hundred thousand dollars in value.

2. Any person who has been damaged by a violation of section 578.416 may have a civil cause of action pursuant to section 537.353, RSMo.

3. Nothing in sections 578.414 to 578.420 shall preclude any owner or operator injured in his or her business or property by a violation of section 578.416 from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates section 578.416. The owner or operator of the business may petition the court to permanently enjoin such persons from violating sections 578.414 to 578.420 and the court shall provide such relief.

578.420. INVESTIGATION OF ALLEGED VIOLATIONS — RULEMAKING AUTHORITY. —

1. The director shall have the authority to investigate any alleged violation of sections 578.414 to 578.420, along with any other law enforcement agency, and may take any action within the director's authority necessary for the enforcement of sections 578.414 to 578.420. The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required in the conduct of an investigation.

2. The director may promulgate rules and regulations necessary for the enforcement of sections 578.414 to 578.420. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 578.414 to 578.420 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 578.414 to 578.420 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

SECTION 1. LANDOWNERS' RIGHT TO PRIVATE WATER SYSTEMS AND GROUND SOURCE SYSTEMS. — Notwithstanding any law to the contrary, all Missouri landowners retain the right to have, use, and own private water systems and ground source systems anytime and anywhere including land within city limits, unless prohibited by city ordinance, on their own property so long as all applicable rules and regulations established by the Missouri

department of natural resources are satisfied. All Missouri landowners who choose to use their own private water system shall not be forced to purchase water from any other water source system servicing their community.

[272.150. SALTPETER WORKS TO BE FENCED. — The owners and occupiers of saltpeter works within this state shall keep the same enclosed with a good and lawful fence, so as to prevent horses, cattle and other stock that may receive injury thereby from having access thereto.]

[272.160. DAMAGES FOR FAILURE TO FENCE. — Every person, owner or occupier of any saltpeter works within this state, failing to secure the same, with a good and lawful fence, from horses, cattle and any kind of stock that may be injured by drinking the saltpeter water, shall be liable to an action by the party injured by such neglect for double the value of such horses, cattle or other stock injured or killed by drinking such water, to be recovered in any court having competent jurisdiction to try the same.]

[272.170. COTTON GINS TO BE ENCLOSED. — Hereafter all persons owning or running cotton gins in the state of Missouri shall keep them enclosed with a sufficient fence to keep out hogs.]

[272.180. COTTON SEED NOT TO BE SCATTERED OUTSIDE OF ENCLOSURE. — They shall not allow the cotton seed from their gin to be scattered or thrown outside of the enclosure.]

[272.190. PENALTY FOR VIOLATION. — Any person violating the provisions of sections 272.170 and 272.180 shall be liable for all damage accruing therefrom.]

[272.200. LANDS UPON WHICH POISONOUS CROPS ARE PLANTED SHALL BE ENCLOSED — PENALTY. — All lands, within this state, upon which sorghum or other poisonous crops are planted shall be enclosed by the owners and occupiers with a good and lawful fence so as to prevent horses, cattle or other stock that may receive injury thereby from having access thereto; provided, that a lawful fence as used in this section shall be construed to mean such fences as are described elsewhere in this chapter and that the same penalties for damages as provided in section 272.160 shall be recoverable under this section; provided further, that this law shall not apply to counties and townships that have or may hereafter adopt a stock law.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to promote investment in agricultural cooperatives the repeal and reenactment of section 348.432 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 348.432 of this act shall be in full force and effect upon its passage and approval.

Approved June 28, 2001

SB 470 [SB 470]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Second State Capitol Commission.

AN ACT to amend chapter 8, RSMo, by adding thereto three new sections relating to the second state capitol commission.

SECTION

- A. Enacting clause.
- 8.001. Second state capitol commission established.
- 8.003. Membership of commission, terms, meetings, annual report.
- 8.007. Duties of the commission — second capitol commission fund created.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 8, RSMo, is amended by adding thereto three new sections, to be known as sections 8.001, 8.003 and 8.007, to read as follows:

8.001. SECOND STATE CAPITOL COMMISSION ESTABLISHED. — The general assembly, recognizing the work of the original state capitol commission board established March 24, 1911, and the work of the capitol decoration commission established April 10, 1917, and seeking to assure the future preservation and integrity of the capitol and to preserve the historical significance of the capitol hereby establishes the second state capitol commission.

8.003. MEMBERSHIP OF COMMISSION, TERMS, MEETINGS, ANNUAL REPORT. — 1. The commission shall consist of eleven persons, as follows: the commissioner of the office of administration; one member of the senate from the majority party and one member of the senate from the minority party; one member of the house of representatives from the majority party and one member of the house of representatives from the minority party; one employee of the house of representatives appointed by the speaker of the house of representatives and one employee of the senate appointed by the president pro tempore; and four members appointed by the governor with the advice and consent of the senate. The lieutenant governor shall be an ex officio member of the commission.

2. The legislative members of the commission shall serve for the general assembly during which they are appointed and until their successors are selected and qualified.

3. The four members appointed by the governor shall be persons who have knowledge and background regarding the history of the state, the history and significance of the seat of state government and the capitol but shall not be required to be professionals in the subject area.

4. The terms of the four members appointed by the governor shall be four years and until their successors are appointed and qualified. Provided, however, that the first term of three public members shall be for two years, thereafter the terms shall be four years. There is no limitation on the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties by the office of administration.

5. At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

6. The commission shall hold at least four regular meetings each year and such additional meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by five members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given by the director to all members of the commission. Five members of the commission shall constitute a quorum. All actions of the commission shall be taken at meetings open to the public. Any member absent from six consecutive regular commission meetings for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 of this section.

7. The commission shall provide a report to the governor and the general assembly annually.

8.007. DUTIES OF THE COMMISSION — SECOND CAPITOL COMMISSION FUND CREATED.**— 1. The commission shall:**

- (1) Exercise general supervision of the administration of sections 8.001 to 8.007;
- (2) Evaluate and recommend courses of action on the restoration and preservation of the capitol, the preservation of historical significance of the capitol and the history of the capitol;
- (3) Evaluate and recommend courses of action to ensure accessibility to the capitol for physically disabled persons;
- (4) Advise, consult, and cooperate with the office of administration, the archives division of the office of the secretary of state, the historic preservation program within the department of natural resources, the division of tourism within the department of economic development and the Historical Society of Missouri in furtherance of the purposes of sections 8.001 to 8.007;
- (5) Be authorized to cooperate or collaborate with other state agencies and not-for-profit organizations to publish books and manuals concerning the history of the capitol, its improvement or restoration;
- (6) Before each September 1, recommend options to the governor on budget allocation for improvements or restoration of the capitol premises;
- (7) Encourage, participate in, or conduct studies, investigations, and research and demonstrations relating to improvement and restoration of the state capitol it may deem advisable and necessary for the discharge of its duties pursuant to sections 8.001 to 8.007; and
- (8) Hold hearings, issue notices of hearings and take testimony as the commission deems necessary.

2. The "Second Capital Commission Fund" is hereby created in the state treasury. Any moneys received from sources other than appropriation by the general assembly, including from private sources, gifts, donations and grants, shall be credited to the second capital commission fund and shall be appropriated by the general assembly.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the second capitol commission fund shall not be transferred and placed to the credit of the general revenue fund.

4. The commission is authorized to accept all gifts, bequests and donations from any source whatsoever. The commission may also apply for and receive grants consistent with the purposes of sections 8.001 to 8.007. All such gifts, bequests, donations and grants shall be used or expended upon appropriation in accordance with their terms or stipulations, and the gifts, bequests, donations or grants may be used or expended for the preservation, restoration and improved accessibility and for promoting the historical significance of the capitol.

Approved July 13, 2001

SB 500 [SB 500]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises certain job training programs.

AN ACT to repeal sections 178.892, 620.470 and 620.474, RSMo 2000, relating to job training, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 178.892. Definitions.
- 620.470. Definitions.
- 620.474. Basic industry retraining program, purpose, funding — qualified industries — rules and regulations, factors to be considered.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 178.892, 620.470 and 620.474, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 178.892, 620.470 and 620.474, to read as follows:

178.892. DEFINITIONS. — As used in sections 178.892 to 178.896, the following terms mean:

(1) "Agreement", the agreement, between an employer and a junior college district, concerning a project. An agreement may be for a period not to exceed ten years when the program services associated with a project are not in excess of five hundred thousand dollars. For a project where associated program costs are greater than five hundred thousand dollars, the agreement may not exceed a period of eight years. No agreement shall be entered into between an employer and a community college district which involves the training of potential employees with the purpose of replacing or supplanting employees engaged in an authorized work stoppage;

(2) "Board of trustees", the board of trustees of a junior college district;

(3) "Certificate", industrial new jobs training certificates issued pursuant to section 178.895;

(4) "Date of commencement of the project", the date of the agreement;

(5) "Employee", the person employed in a new job;

(6) "Employer", the person providing new jobs in conjunction with a project;

(7) "Industry", a business located within the state of Missouri which enters into an agreement with a community college district and which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail[, health, or professional] services. "Industry" does not include a business which closes or substantially reduces its operation in one area of the state and relocates substantially the same operation in another area of the state. This does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced;

(8) "New job", a job in a new or expanding industry not including jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the industry in the state;

(9) "New jobs credit from withholding", the credit as provided in section 178.894;

(10) "New jobs training program" or "program", the project or projects established by a community college district for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the state;

(11) "Program costs", all necessary and incidental costs of providing program services including payment of the principal of, premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, funding and maintenance of a debt service reserve fund to secure such certificates and wages, salaries and benefits of employees participating in on-the-job training;

(12) "Program services" includes, but is not limited to, the following:

(a) New jobs training;

(b) Adult basic education and job-related instruction;

(c) Vocational and skill-assessment services and testing;

(d) Training facilities, equipment, materials, and supplies;

- (e) On-the-job training;
 - (f) Administrative expenses equal to fifteen percent of the total training costs;
 - (g) Subcontracted services with state institutions of higher education, private colleges or universities, or other federal, state, or local agencies;
 - (h) Contracted or professional services; and
 - (i) Issuance of certificates;
- (13) "Project", a training arrangement which is the subject of an agreement entered into between the community college district and an employer to provide program services;
- (14) "Total training costs", costs of training, including supplies, wages and benefits of instructors, subcontracted services, on-the-job training, training facilities, equipment, skill assessment and all program services excluding issuance of certificates.

620.470. DEFINITIONS. — As used in sections 620.470 to 620.481, unless the context clearly requires otherwise, the following terms mean:

- (1) "Department", the Missouri department of economic development;
- (2) "Fund", the Missouri job development fund as established by section 620.478;
- (3) "Industry", an entity the objective of which is to supply a service or the objective of which is the commercial production and sale of an article of trade or commerce. **The term includes a consortium of such entities organized for the purpose of providing for common training to the member entities' employees, provided that the consortium as a whole meets the requirements for participation in this program;**
- (4) "Manufacturing", the making or processing of raw materials into a finished product, especially by means of large-scale machines of industry.

620.474. BASIC INDUSTRY RETRAINING PROGRAM, PURPOSE, FUNDING — QUALIFIED INDUSTRIES — RULES AND REGULATIONS, FACTORS TO BE CONSIDERED. — 1. The department shall establish a basic industry retraining program, the purpose of which is to provide assistance for industries in Missouri for the retraining and upgrading of employees' skills which are required to support new [capital] investment. Such program shall be operated with appropriations made by the general assembly from the fund.

2. Assistance under the basic industry retraining program may be made available for industries in Missouri which make new investments [in manufacturing] without the creation of new employment.

3. The department shall issue rules and regulations governing the awarding of funds administered through the basic industry retraining fund. When promulgating these rules and regulations, the department shall consider such factors as the number of jobs in jeopardy of being lost if retraining does not occur, the amount of private sector investment in new facilities and equipment, the ratio of jobs retained versus investment, the cost of normal, ongoing training required for the industry, the economic need of the affected community, and the importance of the industry to the economic development of Missouri.

Approved June 20, 2001

SB 514 [SCS SB 514]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires compliance with federal law in drug labeling.

AN ACT to repeal section 196.100, RSMo 2000, relating to labeling of drugs, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

196.100. When drug or device misbranded.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 196.100, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 196.100, to read as follows:

196.100. WHEN DRUG OR DEVICE MISBRANDED. — 1. [A drug or device shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular;
 - (2) If in package form unless it bears a label containing:
 - (a) The name and place of business of the manufacturer, packer, or distributor; and
 - (b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under paragraph (b) of this subdivision reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department of health;
 - (3) If any word, statement, or other information required by or under authority of sections 196.010 to 196.120 to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
 - (4) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alphaeuaine, barbituric acid, betaeuaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which derivative has been by the department after investigation, found to be, and by regulations under sections 196.010 to 196.120, designated as, habit forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning — may be habit forming";
 - (5) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears:
 - (a) The common or usual name of the drug, if such there be; and
 - (b) In case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanth, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided, that to the extent that compliance with the requirements of paragraph (b) of this subdivision is impracticable, exemptions shall be established by regulations promulgated by the department of health;
 - (6) Unless its labeling bears:
 - (a) Adequate directions for use; and
 - (b) Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that where any requirement of paragraph (a) of this subdivision, as applied to any drug or device, is not necessary for the protection of the public health, the department shall promulgate regulations exempting such drug or device from such requirements;
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(7) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the department. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia;

(8) If it has been found by the department to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the department shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the department shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements;

(9) If it is a drug and its container is so made, formed, or filled as to be misleading; or if it is an imitation of another drug; or if it is offered for sale under the name of another drug;

(10) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof;

(11) If it purports to be, or is represented as a drug composed wholly or in part of insulin, unless it is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C.A. 356 and, such certificate or release is in effect with respect to such drug.] **Any manufacturer, packer, distributor or seller of drugs or devices in this state shall comply with the current federal labeling requirements contained in the Federal Food, Drug and Cosmetic Act, as amended, and any federal regulations promulgated thereunder. Any drug or device which contains labeling that is not in compliance with the provisions of this section shall be deemed misbranded.**

2. A drug dispensed on a written prescription signed by a licensed physician, dentist, or veterinarian, except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to a diagnosis by mail, shall be exempt from the requirements of this section if such physician, dentist, or veterinarian is licensed by law to administer such drug, and such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian.

3. The department is hereby directed to promulgate regulations exempting from any labeling or packaging requirement of sections 196.010 to 196.120, drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of said sections upon removal from such processing, labeling, or repacking establishment.

Approved June 7, 2001

SB 515 [HCS SCS SB 515]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies requirements for items that are filed with the Recorder of Deeds.

AN ACT to repeal sections 59.310 and 59.313, RSMo 2000, relating to county recorders of deeds, and to enact in lieu thereof three new sections relating to the same subject, with an effective date.

SECTION

- A. Enacting clause.
- 59.005. Definitions.
- 59.310. Documents for recording — page, defined — size of type or print — signature requirements — recorder's fee.
- 59.313. Recorder's fees (St. Louis City) — page, defined — size of type or print — signature requirements.
- 59.310. Documents for recording — page, defined — size of type or print — signature requirements.
- 59.313. Recorder's fees (St. Louis City) — page, defined — size of type or print — signature requirements.
- B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 59.310 and 59.313, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 59.005, 59.310 and 59.313, to read as follows:

59.005. DEFINITIONS. — As used in this chapter, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Document" or "instrument", any writing or drawing presented to the recorder of deeds for recording;
- (2) "File", "filed" or "filing", the act of delivering or transmitting a document to the recorder of deeds for recording into the official public record;
- (3) "Grantor" or "grantee", the names of the parties involved in the transaction used to create the recording index;
- (4) "Legal description", includes but is not limited to the lot or parts thereof, block, plat or replat number, plat book and page and the name of any recorded plat or a metes and bounds description with acreage, if stated in the description, or the quarter/quarter section, and the section, township and range of property, or any combination thereof. The address of the property shall not be accepted as legal description;
- (5) "Legible", all text, seals, drawings, signatures or other content within the document must be capable of producing a clear and readable image from record, regardless of the process used for recording;
- (6) "Page", any writing, printing or drawing printed on one side only covering all or part of the page, not larger than eight and one-half inches in width and eleven inches in height for pages other than a plat or survey;
- (7) "Record", "recorded" or "recording", the recording of a document into the official public record, regardless of the process used;
- (8) "Recorder of deeds", the separate recorder of deeds in those counties where separate from the circuit clerk and the circuit clerk and ex officio recorder of deeds in those counties where the offices are combined.

59.310. DOCUMENTS FOR RECORDING — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS — RECORDER'S FEE. — 1. The county recorder of deeds may refuse any document presented for recording that does not meet the following requirements:

- (1) The document shall consist of one or more individual pages printed only on one side and not permanently bound nor in a continuous form. The document shall not have any attachment stapled or otherwise affixed to any page except as necessary to comply with statutory requirements, provided that a document may be stapled together for presentation for recording; a label that is firmly attached with a bar code or return address may be accepted for recording;
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(2) The size of print or type shall not be smaller than eight-point type and shall be in black or dark ink. Should any document presented for recording contain type smaller than eight-point type, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(3) The document must be of sufficient legibility to produce a clear and legible reproduction thereof. Should any document not be of sufficient legibility to produce a clear and legible reproduction, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(4) The document shall be on white paper or light-colored of not less than twenty-pound weight without watermarks or other visible inclusions, except for plats and surveys, which may be on materials such as mylar or velum. All text within the document shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable;

(5) All signatures on a document shall be in black or dark ink, such that such signatures shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable, and shall have the corresponding name typed, printed or stamped underneath said signature. The typing or printing of any name or the applying of an embossed or inked stamp shall not cover or otherwise materially interfere with any part of the document except where provided for by law;

(6) The documents shall have a top margin of at least three inches of vertical space from left to right, to be reserved for the recorder of deeds' certification and use. All other margins on the document shall be a minimum of three-fourths of one inch on all sides. Nonessential information such as form numbers, page numbers or customer notations may be placed in the margin. A document may be recorded if a minor portion of a seal or incidental writing extends beyond the margins. The recorder of deeds will not incur any liability for not showing any seal or information that extends beyond the margins of the permanent archival record.

2. Every document containing any of the items listed in this subsection that is presented for recording, except plats and surveys, shall have such information on the first page below the three-inch horizontal margin:

- (1) The title of the document;
- (2) The date of the document;
- (3) All grantors' names;
- (4) All grantees' names;
- (5) Any statutory addresses;
- (6) The legal description of the property; and
- (7) Reference book and pages for statutory requirements, if applicable.

If there is not sufficient room on the first page for all of the information required by this subsection, the page reference within the document where the information is set out shall be stated on the first page.

3. From January 1, 2002, documents which do not meet the requirements set forth in this section may be recorded for an additional fee of twenty-five dollars, which shall be deposited in the recorders' fund established pursuant to subsection 1 of section 59.319.

4. Documents which are exempt from format requirements and which the recorder of deeds may record include the following:

- (1) Documents which were signed prior to January 1, 2002;
- (2) Military separation papers;
- (3) Documents executed outside the United States;
- (4) Certified copies of documents, including birth and death certificates;
- (5) Any document where one of the original parties is deceased or otherwise incapacitated; and

(6) Judgments or other documents formatted to meet court requirements.

5. Any document rejected by a recorder of deeds shall be returned to the preparer or presenter accompanied by an explanation of the reason it could not be recorded.

6. Recorder of deeds shall be allowed fees for their services as follows:

(1) For recording every deed or instrument: five dollars for the first page and three dollars for each page thereafter except for plats and surveys;

(2) For copying or reproducing any recorded instrument, except surveys and plats: a fee not to exceed two dollars for the first page and one dollar for each page thereafter;

(3) For every certificate and seal, except when recording an instrument: one dollar;

(4) For recording a plat or survey of a subdivision, outlets or condominiums: twenty-five dollars for each sheet of drawings or calculations based on a size not to exceed twenty-four inches in width by eighteen inches in height. For recording a survey of one or more tracts: five dollars for each sheet of drawings or calculations based on a size not to exceed twenty-four inches in width by eighteen inches in height. Any plat or survey larger than eighteen inches by twenty-four inches shall be counted as an additional sheet for each additional eighteen inches by twenty-four inches, or fraction thereof, plus five dollars per page of other material;

(5) For copying a plat or survey of one or more tracts: a fee not to exceed five dollars for each sheet of drawings and calculations not larger than twenty-four inches in width and eighteen inches in height and one dollar for each page of other material;

(6) For a document which releases or assigns more than one item: five dollars for each item beyond one released or assigned in addition to any other charges which may apply;

(7) For every certified copy of a marriage license or application for a marriage license: two dollars;

(8) For duplicate copies of the records in a medium other than paper, the recorder of deeds shall set a reasonable fee not to exceed the costs associated with document search and duplication; and

(9) For all other use of equipment, personnel services and office facilities, the recorder of deeds may set a reasonable fee.

59.313. RECORDER'S FEES (ST. LOUIS CITY) — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS. — 1. The recorder of deeds in a city not within a county may refuse any document presented for recording that does not meet the following requirements:

(1) The document shall consist of one or more individual pages not permanently bound nor in a continuous form. The document shall not have any attachment stapled or otherwise affixed to any page except as necessary to comply with statutory requirements, provided that a document may be stapled together for presentation for recording; a label that is firmly attached with a bar code or return address may be accepted for recording;

(2) The size of print or type shall not be smaller than eight-point type and shall be in black or dark ink. Should any document presented for recording contain type smaller than eight-point type, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(3) The document must be of sufficient legibility to produce a clear and legible reproduction thereof. Should any document not be of sufficient legibility to produce a clear and legible reproduction, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(4) The document shall be on white or light-colored paper of not less than twenty-pound weight without watermarks or other visible inclusions, except for plats and surveys, which may be on materials such as mylar or velum. All text within the document shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable;

(5) All signatures on a document shall be in black or dark ink, such that such signatures shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it shall be readable, and shall have the corresponding name typed, printed or stamped underneath said signature. The typing or printing of any name or the applying of an embossed or inked stamp shall not cover or otherwise materially interfere with any part of the document, except where provided for by law;

(6) Every document, except plats and surveys, shall have a top margin of at least three inches of vertical space from left to right, to be reserved for the recorder of deeds' certification and use. All other margins on the document shall be a minimum of three-fourths of one inch on all sides. Nonessential information such as form numbers, page numbers or customer notations may be placed in the margin. A document may be recorded if a minor portion of a seal or incidental writing extends beyond the margins. The recorder of deeds will not incur any liability for not showing any seal or information that extends beyond the margins of the permanent archival record.

2. Every document containing any of the items listed in this subsection that is presented for recording, except plats and surveys, shall have such information on the first page below the three inch horizontal line:

- (1) The title of the document;
- (2) The date of the document;
- (3) All grantors' names;
- (4) All grantees' names;
- (5) Any statutory addresses;
- (6) The legal description or descriptions of the property; and
- (7) Reference book and page for statutory requirements, if applicable.

If there is not sufficient room on the first page for all the required information, the page reference within the document where the information is set out shall be placed on the first page.

3. From January 1, 2002, documents which do not meet the requirements set forth in this section may be recorded for an additional fee of twenty-five dollars, which shall be deposited in the recorders' fund established pursuant to subsection 1 of section 59.319.

4. Documents which are exempt from format requirements and which the recorder of deeds may record include the following:

- (1) Documents which were signed prior to January 1, 2002;
- (2) Military separation papers;
- (3) Documents executed outside the United States;
- (4) Certified copies of documents, including birth and death certificates;
- (5) Any document where one of the original parties is deceased or otherwise incapacitated; and
- (6) Judgments or other documents formatted to meet court requirements.

5. Any document rejected by a recorder of deeds shall be returned to the preparer or presenter accompanied by an explanation of the reason it could not be recorded.

6. Recorder of deeds shall be allowed fees for their services as follows:

- (1) For recording every deed or instrument: ten dollars for the first page and five dollars for each page thereafter;
- (2) For copying or reproducing any recorded instrument, except surveys and plats: three dollars for the first page and two dollars for each page thereafter;
- (3) For every certificate and seal, except when recording an instrument: two dollars;

(4) For recording a plat or survey of a subdivision, outlots or condominiums: forty-four dollars for each sheet of drawings and calculations based on a size of not to exceed twenty-four inches in width by eighteen inches in height, plus ten dollars for each page of other materials;

(5) For recording a survey of one tract of land, in the form of one sheet not to exceed twenty-four inches in width by eighteen inches in height: eight dollars;

(6) For copying a plat or survey: eight dollars for each page;

(7) For every certified copy of a marriage license or application for a marriage license: five dollars;

(8) For releasing on the margin: eight dollars for each item released;

(9) For a document which releases or assigns more than one item: seven dollars and fifty cents for each item beyond one released or assigned in addition to any other charges which may apply; and

(10) For duplicate reels of microfilm: thirty dollars each. For all other use of equipment, personnel services and office space the recorder of deeds shall set attendant fees.

[59.310. DOCUMENTS FOR RECORDING — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS. — 1. As used in this section, "page" means any writing, printing or drawing covering all or part of one side of a paper, other than a plat, not larger than 8 1/2 inches x 14 inches, or of a plat not larger than 18 inches x 24 inches, with the following conditions:

(1) Should sufficient space not be provided for the necessary recording information and certification on a document, said recording information and certification shall be placed on an added sheet and such sheet shall be counted as a page;

(2) The size of print or type on any document to be recorded shall not be smaller than 8 point. Should any document to be recorded contain type smaller than 8 point, such document must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document;

(3) The document must be of sufficient legibility so as to produce a clear and legible reproduction thereof. Should a document not be of sufficient legibility so as to produce a clear and legible reproduction, such document must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document;

(4) Any attachment which extends the length of the page, and any deed or document larger than 8 1/2 inches x 14 inches, other than a plat or survey, shall be counted as an additional page for each additional 8 1/2 inches x 14 inches or fraction thereof. Any plat or survey larger than 18 inches x 24 inches shall be counted as an additional page for each additional 18 inches x 24 inches or fraction thereof.

2. Any signature on a document shall have the corresponding name typed, printed or stamped underneath said signature.

3. Recorders shall be allowed fees for their services as follows:

(1) For recording every deed or instrument: \$5.00 for the first page and \$3.00 for each page thereafter;

(2) For copying or reproducing any recorded instrument except surveys or plats: a fee not to exceed \$2.00 for the first page and \$1.00 for every page thereafter;

(3) For every certificate and seal, except when recording an instrument: \$1.00;

(4) For recording a plat or survey of a subdivision, outlots or condominiums: \$25.00 for each page of drawings and calculations plus \$5.00 for each page of other material;

(5) For recording a survey of one tract of land, in the form of one page: \$5.00 per page;

(6) For copying a plat or survey: a fee not to exceed \$5.00 for each page;

(7) For every certified copy of a marriage license or application for a marriage license: \$2.00. The only additional fee over and above this is the \$1.00 state user fee on all documents

that convey real estate, and a 25-cent fee for identifying each note to an instrument when a document is recorded that creates a lien against the real estate.]

[59.313. RECORDER'S FEES (ST. LOUIS CITY) — PAGE, DEFINED — SIZE OF TYPE OR PRINT — SIGNATURE REQUIREMENTS. — 1. As used in this section for recording in the office of the recorder of deeds of any city not within a county, "page" means any writing, printing or drawing covering all or part of one side of a paper, other than a plat not larger than 8 1/2 inches x 14 inches, or of a plat not larger than 18 x 24 inches, with the following conditions:

(1) Should sufficient space not be provided for the necessary recording information and certification on a document, said recording information and certification shall be placed on an added sheet and such sheet shall be counted as a page;

(2) The size of print or type on any document to be recorded shall not be smaller than 8 point. Should any document to be recorded contain type smaller than 8 point, such document must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document. Such additional documents shall be recorded at the same cost as an original;

(3) The document must be of sufficient legibility so as to produce a clear and legible reproduction thereof. Should a document not be of sufficient legibility so as to produce a clear and legible reproduction, such document must be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document;

(4) Any attachment which extends the length of the page, and any deed or document larger than 8 1/2 inches x 14 inches, other than a plat or survey, shall be counted as an additional page for each additional 8 1/2 inches x 14 inches or fraction thereof. Any plat or survey larger than 18 inches x 24 inches shall be counted as an additional page for each additional 18 inches x 24 inches or fraction thereof.

2. Any signature on a document shall have the corresponding name typed, printed or stamped underneath the signature.

3. The recorder of deeds in any city not within a county shall be allowed fees for his services as follows:

(1) For recording every deed or instrument: \$10.00 for the first page and \$5.00 for each page thereafter;

(2) For copying or reproducing any recorded instrument, except surveys and plats: \$3.00 for the first page and \$2.00 for each page thereafter;

(3) For every certificate and seal, except when recording an instrument: \$2.00;

(4) For recording a plat or survey of a subdivision, outlots or condominiums: \$44.00 for each page of drawings and calculations plus \$10.00 for each page of other materials;

(5) For recording a survey of one tract of land, in the form of one page: \$8.00;

(6) For copying a plat or survey: \$8.00 for each page;

(7) For every certified copy of a marriage license or application for a marriage license: \$5.00;

(8) For releasing on the margin: \$8.00 for each item released;

(9) For a document which releases or assigns more than one item: \$7.50 for each item beyond one released or assigned in addition to any other charges which may apply; and

(10) For duplicate reels of microfilm: \$30.00 each. For all other personnel services, use of equipment and use of office space the recorder of deeds shall set attendant fees.]

SECTION B. EFFECTIVE DATE. — The enactment of section 59.005 and the repeal and reenactment of sections 59.310 and 59.313 shall become effective January 1, 2002.

Approved July 13, 2001

SB 520 [HCS SCS SB 520]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies that the highest weight for a property-carrying local commercial vehicle is 72,001 - 80,000 pounds.

AN ACT to repeal sections 301.041, 301.057, 301.058 and 301.121, RSMo 2000, section 301.130 as enacted by house committee substitute for senate substitute for senate bill no. 3 and senate bill no. 156, eighty-eighth general assembly, first regular session, 301.130 as enacted by conference committee substitute for senate substitute for senate bill no. 70, eighty-eighth general assembly, first regular session, relating to motor vehicles, and to enact in lieu thereof five new sections relating to the same subject.

SECTION

A. Enacting clause.

- 301.041. Reciprocity agreement, registered commercial vehicles, annual registration — procedures — failure to display plates, penalty — director may promulgate rules — validity of previously issued plates.
- 301.057. Annual registration fee — property-carrying commercial vehicles — exemption.
- 301.058. Annual registration fees for local property-carrying commercial motor vehicles — exempt vehicles — improper registration, when, penalties.
- 301.121. Return of plates, partial refund.
- 301.130. License plates, required slogan and information — special plates — plates, how displayed — tabs to be used — rulemaking authority, procedure.
- 301.130. License plates, required slogan and information — special plates — plates, how displayed — tabs to be used — rulemaking authority, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.041, 301.057, 301.058 and 301.121, RSMo 2000, section 301.130 as enacted by house committee substitute for senate substitute for senate bill no. 3 and senate bill no. 156, eighty-eighth general assembly, first regular session, 301.130 as enacted by conference committee substitute for senate substitute for senate bill no. 70, eighty-eighth general assembly, first regular session, are repealed and five new sections enacted in lieu thereof, to be known as sections 301.041, 301.057, 301.058, 301.121 and 301.130, to read as follows:

301.041. RECIPROCITY AGREEMENT, REGISTERED COMMERCIAL VEHICLES, ANNUAL REGISTRATION — PROCEDURES — FAILURE TO DISPLAY PLATES, PENALTY — DIRECTOR MAY PROMULGATE RULES — VALIDITY OF PREVIOUSLY ISSUED PLATES. — 1. All commercial motor vehicles and trailers **registered pursuant to this section or** to be operated under agreements as provided for in sections 301.271 to 301.279 shall be registered annually.

2. An application for renewal registration [under] **pursuant to** this section shall be made with all required documents on or before October first of each year. Renewal applications received after October first shall be assessed a penalty of one hundred dollars. The director or his **or her** designee may waive the penalty [under] **pursuant to** this subsection for good cause.

3. Fees for commercial motor vehicles **and trailers** renewed [under] **pursuant to** this section shall be paid no later than December first of each year except for payments made on an installment basis as provided in subsection 4 of this section. Renewal application fees not paid by December first shall be assessed a penalty of fifty dollars per vehicle, but in no case shall such penalty exceed one hundred fifty dollars per application. The director or his **or her** designee may, for good cause, waive or reduce any penalties assessed [under] **pursuant to** this subsection.

4. Any owner of a commercial motor vehicle or trailer operated [under] **pursuant to this section or** agreements provided in sections 301.271 to 301.279 may elect to pay the **Missouri**

portion of the annual registration fee in two equal installments, except that no such installment shall be less than one hundred dollars. The first installment shall be payable on or before December first, and the second installment shall be payable on or before June first of that registration year. Every owner electing to pay on an installment basis shall file with the director of the department of revenue, on or before December first, a surety bond, certificate of deposit or irrevocable letter of credit as defined in section 400.5-103, RSMo, to guarantee the payment of the second installment. The bond or certificate or letter of credit shall be in an amount equal to the payment guaranteed.

5. If a new application for registration of a commercial vehicle **or trailer** is made other than as specified in subsection 1 of this section, the registration fee shall be prorated as follows:

(1) For applications made between April first and June thirtieth, the applicant shall pay three-fourths of the annual registration fee;

(2) For applications made between July first and September thirtieth, the applicant shall pay one-half of the annual registration fee; and

(3) For applications made after October first of the current registration year, the applicant shall pay one-fourth of the annual registration fee.

6. Any applicant who fails to timely renew his **or her** registration with all required documents [under] **pursuant to** this section or who fails to timely pay any fees and penalties owed [under] **pursuant to** this section shall not be issued a temporary registration **for a motor vehicle or a trailer issued pursuant to this section or** under agreements as provided for in sections 301.271 and 301.279. Nothing in this section shall prohibit the issuance of temporary registration credentials for additions to the registrant's fleet subsequent to renewal.

7. The applicant for registration [under] **pursuant to** this section shall affix the registration plate issued by the director to the front of the vehicle in accordance with the provisions of section 301.130. Any vehicle required to be registered [under] **pursuant to** this section shall display the plate issued to that vehicle no later than December thirty-first of each year. Failure to display the registration plates required by this section shall constitute a class A misdemeanor.

8. The director of revenue may prescribe rules and regulations for the effective administration of this section.

9. Any current registration or plate for which all fees have been paid for a commercial trailer previously issued pursuant to agreements provided for in sections 301.271 and 301.277 shall remain valid even if such agreements no longer require apportionment of such trailers under such agreements, and such trailers may continue to be registered pursuant to this section.

10. Notwithstanding any other law to the contrary, the highway reciprocity commission shall have the authority pursuant to this chapter to issue permanent and temporary registrations on commercial trailers whether or not the registration is issued pursuant to agreements as provided in sections 301.271 to 301.279. The provisions of subsection 1 of section 301.190 shall not apply to registrations issued pursuant to this subsection, provided the carrier or person to whom the registration is issued has at least one tractor as defined in section 301.010 registered with the state of Missouri pursuant to this section.

11. Commercial trailer plates issued pursuant to this section shall in all other respects conform to and have the same requirements as those issued pursuant to subsection 3 of section 301.067. Such plates may contain the legend "HRC TLR" in preference to the words "Show-Me State".

301.057. ANNUAL REGISTRATION FEE — PROPERTY-CARRYING COMMERCIAL VEHICLES — EXEMPTION. — The annual registration fee for property-carrying commercial motor vehicles, not including property-carrying local commercial motor vehicles, or land improvement contractors' commercial motor vehicles, based on gross weight is:

6,000 pounds and under	\$ 25.50
6,001 pounds to 9,000 pounds	38.00
9,001 pounds to 12,000 pounds	38.00
12,001 pounds to 18,000 pounds	63.00
18,001 pounds to 24,000 pounds	100.50
24,001 pounds to 26,000 pounds	127.00
26,001 pounds to 30,000 pounds	180.00
30,001 pounds to 36,000 pounds	275.50
36,001 pounds to 42,000 pounds	413.00
42,001 pounds to 48,000 pounds	550.50
48,001 pounds to 54,000 pounds	688.00
54,001 pounds to 60,010 pounds	825.50
60,011 pounds to 66,000 pounds	1,100.50
66,001 pounds to 73,280 pounds	1,375.50
73,281 pounds to 78,000 pounds	1,650.50
[Over 78,000] 78,001 to 80,000 pounds	1,719.50

301.058. ANNUAL REGISTRATION FEES FOR LOCAL PROPERTY-CARRYING COMMERCIAL MOTOR VEHICLES — EXEMPT VEHICLES — IMPROPER REGISTRATION, WHEN, PENALTIES. — 1. The annual registration fee for property-carrying local commercial motor vehicles, other than a land improvement contractors' commercial motor vehicles, based on gross weight is:

6,000 pounds and under	\$ 15.50
6,001 pounds to 12,000 pounds	18.00
12,001 pounds to 18,000 pounds	20.50
18,001 pounds to 24,000 pounds	27.50
24,001 pounds to 26,000 pounds	33.50
26,001 pounds to 30,000 pounds	45.50
30,001 pounds to 36,000 pounds	67.50
36,001 pounds to 42,000 pounds	100.50
42,001 pounds to 48,000 pounds	135.50
48,001 pounds to 54,000 pounds	170.50
54,001 pounds to 60,010 pounds	200.50
60,011 pounds to 66,000 pounds	270.50
66,001 pounds to 72,000 pounds	335.50
[Over 72,000] 72,001 pounds to 80,000 pounds	350.50

2. Any person found to have improperly registered a motor vehicle in excess of fifty-four thousand pounds when he **or she** was not entitled to shall be required to purchase the proper license plates and, in addition to all other penalties provided by law, shall be subject to the annual registration fee for the full calendar year for the vehicle's gross weight as prescribed in section 301.057.

301.121. RETURN OF PLATES, PARTIAL REFUND. — 1. When the owner of a commercial motor vehicle registered in excess of fifty-four thousand pounds returns the license plates to the director of revenue as provided in section 301.120, but not for a license suspension or revocation, [he] **the owner** shall receive a refund or credit of any pro rata amount to be determined by the calendar quarters remaining before expiration of the license plates. Such refund or credit shall be granted based upon the date the license plates are surrendered to the director of revenue. Any credit or refund may be applied toward any subsequent application for a Missouri registration only if a commercial motor vehicle. Any refunded portion of a registration fee which was distributed according to the provisions of article IV, section 30(b) of the Constitution of Missouri shall be refunded proportionately from state, city and county funds.

2. When the owner of a commercial motor vehicle registered in excess of fifty-four thousand pounds returns the license plate or plates to the appropriate official in the state where the license plate for the commercial motor vehicle was issued, a refund or credit shall be issued by the director of revenue as provided in subsection 1 of this section. **If the refund is to come from moneys previously transferred to another state by this state as a result of a reciprocity agreement, such refund by the director of revenue may only be made upon return of such moneys from that state to the director. If such moneys are not returned by that state, such refund will not be made.**

301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided herein. Each set of license plates shall bear the name or abbreviated name of this state, the words "Show-Me State", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "Show-Me State" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "Show-Me State".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration.

3. The background of all license plates, or the letters and numerals thereof, shall be coated with a material which will reflect the lights of other vehicles. The nature and specifications of this material shall be determined after a public hearing by the director of revenue, director of prison industries, and superintendent of the state highway patrol, and shall meet the standards established by the state transportation department.

4. Figures on license plates, except those which may be used to designate gross weights for which commercial motor vehicles are registered, shall not be less than three inches in height and the strokes thereof not less than five-sixteenths of an inch in width. In the case of motorcycles and motortricycles, the letters and figures shall be not less than one inch in height and the strokes thereof one-eighth of an inch in width. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

5. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, but only one license plate shall be issued for each such vehicle.

6. The plates issued to manufacturers and dealers shall bear the letter "D" preceding the number, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

7. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the

rear of such vehicles, with the letters and numbers thereon right side up. The license plate on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

8. (1) The director of revenue shall issue annually a tab or set of tabs as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates; except that the director shall annually issue a new license plate or set of plates as provided in this section for vehicles registered pursuant to subsection 2 of section 301.277, commercial motor vehicles in excess of twelve thousand pounds, trailers, buses and dealers.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs on the middle of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as provided in subdivision (1) of this subsection, the director of revenue shall issue plates for a period of at least five years.

(5) For those commercial motor vehicles **and trailers** registered pursuant to [an agreement under section 301.277] **section 301.041**, the plate issued by the director of revenue shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered [under] **pursuant to** this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the director of revenue upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highway reciprocity commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the director of revenue shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the director and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highway reciprocity commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

9. The director of revenue may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

[301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided in this section. Unless otherwise provided by law, each license plate or set of license plates issued, renewed or replaced on or after January 1, 1997, shall contain the following:

- (1) The name or abbreviated name of this state;
- (2) The words "Show-Me State";
- (3) The month and year in which the registration shall expire;
- (4) An arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue; and

(5) Fully reflective material with a common color scheme and design for each type of license plate issued under this chapter, which shall be designated by an advisory committee established in section 301.129. The license plates shall be clearly visible at night, and shall be aesthetically attractive. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire between January 1, 1997, and December 31, 1997, applicants for registration of trailers or semitrailers with license plates that expire between January 1, 1997, and December 31, 1999, and applicants for registration of vehicles that are to be issued new license plates shall pay an additional fee of up to two dollars and twenty-five cents, based on the actual cost of the reissuance, to cover the cost of the fully reflective plates required by this subsection. Notwithstanding the provisions of subsection 3 of section 301.067 to the contrary, every license plate for a trailer or semitrailer which is permanently registered under subsection 3 of section 301.067 shall be returned to the director of revenue between January 1, 1997, and December 31, 1997, and a license plate which conforms to the provisions of this subsection issued as a replacement plate upon the payment of a one dollar and fifteen cent fee per plate prescribed by this subdivision. The additional fee, based on the actual cost, prescribed by this subdivision shall only be one dollar and fifteen cents for issuance of one new plate for vehicles requiring only one license plate pursuant to subsection 5 or 7 of this section. The additional fee of two dollars and twenty-five cents prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. The department of revenue shall adopt a program whereby all motor vehicle registrations renewed on or after January 1, 1997, will have replacement reflective plates issued for such registration prior to January 1, 2000. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "Show-Me State" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "Show-Me State". Veterans' plates shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129.

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration.

3. The competitive bidding process used to select a vendor for the material to manufacture the license plates shall consider the aesthetic appearance of the plates and the reflective illumination capability for safety reasons. The advisory committee established in section 301.129 shall adopt specifications for all reflective material. The competitive bidding request for proposal shall contain a deduction in the amount of twenty-eight cents per plate from the cost of the reflective sheeting. The committee may select graphic designs or any of the plate processes approved on January 1, 1997.

4. Figures on license plates, except those which may be used to designate gross weights for which commercial motor vehicles are registered, shall be of a size set by the advisory committee established in section 301.129. In the case of motorcycles, motortricycles and trailers that are pulled by motorcycles or motortricycles, the letters and figures shall be of a size set by the advisory committee. The advisory committee may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

5. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, but only one license plate shall be issued for each such vehicle, except as

provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle to be registered at a gross weight in excess of twelve thousand pounds or passenger-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued, the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

6. The plates issued to manufacturers and dealers shall bear the letter "D" preceding the number, and the advisory committee may require the placement upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

7. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up, or if two plates are issued for the vehicle pursuant to subsection 5 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

8. (1) The director of revenue shall issue annually a tab or set of tabs as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as provided in subdivision (1) of this subsection, the director of revenue shall issue plates for a period of at least five years.

(5) For those commercial motor vehicles registered pursuant to an agreement under section 301.277, the plate issued by the director of revenue shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered under this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the director of revenue upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highway reciprocity commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the director of revenue shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the director and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highway reciprocity commission for the registration of such

replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

9. The director of revenue may prescribe rules and regulations for the effective administration of this section.

10. Any rule or portion of a rule promulgated pursuant to this section may be suspended by the joint committee on administrative rules if after hearing thereon the committee finds that such rule or portion of the rule is beyond or contrary to the statutory authority of the agency which promulgated the rule, or is inconsistent with the legislative intent of the authorizing statute. The general assembly may reinstate such rule by concurrent resolution signed by the governor.]

Approved July 13, 2001

SB 521 [HCS SB 521]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies duty of workers' compensation insurance carriers.

AN ACT to repeal section 287.123, RSMo 2000, relating to workers' compensation insurance carriers, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

287.123. Insurers to establish safety engineering and management services program — requirements — division to maintain registry.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 287.123, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 287.123, to read as follows:

287.123. INSURERS TO ESTABLISH SAFETY ENGINEERING AND MANAGEMENT SERVICES PROGRAM — REQUIREMENTS — DIVISION TO MAINTAIN REGISTRY. — 1. Each insurance carrier writing workers' compensation insurance in this state shall establish a program whereby the carrier shall have available and shall provide to each employer obtaining workers' compensation coverage from such insurance carrier comprehensive safety engineering and management services upon a request made by the employer for such services.

2. Each insurance carrier writing workers' compensation insurance in this state shall provide the director of the department of labor and industrial relations with a written outline of the safety engineering and management program required to be established under subsection 1 of this section. Such program **required to be established pursuant to subsection 1 of this section** shall require certification by the director as to its adequacy in providing safety management and loss control to the employer. An insurance carrier's program **required to be established pursuant to subsection 1 of this section** shall be reviewed by the director at least annually to determine that it is delivering comprehensive services for safety education and the elimination of and protection against unsafe acts in the workplace and frequently recognized compensable worker injuries. An insurance carrier may establish such program **required to be established pursuant to subsection 1 of this section** through contracts with private safety engineering and

management service companies in the state. Each insurance carrier shall collect annual data on what impact its program **required to be established pursuant to subsection 1 of this section** has had on compensable losses of the employers it insures, and such data shall be made available to the department of insurance and the department of labor and industrial relations. **When the employer requests services under such program and the insurance carrier provides such services, the insurance carrier shall report such services to the division.**

3. At each time the division of workers' compensation receives notice from an employer that the employer has purchased workers' compensation insurance coverage from a different insurance carrier or has made an initial purchase of workers' compensation coverage, the division shall notify the employer in writing of publicly or privately administered worker safety programs available in the state, unless such notice has been given in the prior twelve months.

4. The division shall maintain a registry of safety consultants and safety engineers certified by the department of labor and industrial relations and such registry shall be available for inspection by any employer in this state. Standards and requirements for certificates of safety consultants and safety engineers shall be determined by the department of labor and industrial relations by rule.

Approved July 10, 2001

SB 538 [HCS SB 538]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows residential mortgage brokers to post bond instead of providing annual audits.

AN ACT to repeal sections 443.803, 443.805, 443.809, 443.810, 443.812, 443.819, 443.821, 443.825, 443.827, 443.833, 443.839, 443.841, 443.849, 443.851, 443.855, 443.857, 443.859, 443.863, 443.867, 443.869, 443.879, 443.881 and 443.887, RSMo 2000, relating to mortgages and mortgage brokers, and to enact in lieu thereof twenty-three new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 443.803. Definitions.
- 443.805. License required to broker residential mortgage, exceptions.
- 443.809. Examination, powers of director to inspect records of unlicensed persons to determine licensing required.
- 443.810. Penalty for violations.
- 443.812. One license issued to each broker — record required of locations where any business is conducted.
- 443.819. Brokerage business to be operated under actual names of persons or corporations, violation, penalties.
- 443.821. License to be issued on completion of requirements — notice of denial of license to contain reasons — appeal procedure.
- 443.825. Application content, oath and form.
- 443.827. Applicant for license must agree to maintain certain requirements as to methods of conducting business.
- 443.833. Renewal of license, date, procedure, fee — failure to renew, license becomes inactive, reactivation — expires, when.
- 443.839. Application by licensee to open additional full-service offices, fee — certificate to be issued and posted.
- 443.841. License to be displayed — out-of-state to produce on request — license content.
- 443.849. Bonding requirements.
- 443.851. Audit required annually of licensee's books and accounts — scope of audit — filed with director, authority for rules — alternative to audit requirements.
- 443.855. Advertising policies to be established by director — standards required — other rules authorized.
- 443.857. Licensee shall maintain at least one full-service office with staff, duties to handle matters relating to mortgage.
- 443.859. Net worth requirement for licensees.

- 443.863. Unlawful discrimination for refusal to loan or vary terms of the loan.
- 443.867. Disclosure statement required of licensees, content — filed at time of application.
- 443.869. Powers and duties of director — rulemaking authority.
- 443.879. Reports required, failure to comply, penalty.
- 443.881. Suspension or revocation of license, grounds — procedure, penalties.
- 443.887. General rulemaking powers of director.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 443.803, 443.805, 443.809, 443.810, 443.812, 443.819, 443.821, 443.825, 443.827, 443.833, 443.839, 443.841, 443.849, 443.851, 443.855, 443.857, 443.859, 443.863, 443.867, 443.869, 443.879, 443.881 and 443.887, RSMo 2000, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 443.803, 443.805, 443.809, 443.810, 443.812, 443.819, 443.821, 443.825, 443.827, 443.833, 443.839, 443.841, 443.849, 443.851, 443.855, 443.857, 443.859, 443.863, 443.867, 443.869, 443.879, 443.881 and 443.887, to read as follows:

443.803. DEFINITIONS. — 1. For the purposes of sections 443.800 to 443.893, the following terms mean:

(1) "Advertisement", the attempt by publication, dissemination or circulation to induce, directly or indirectly, any person to apply for a [residential mortgage] loan [application relative] to [a mortgage] **be** secured by residential real estate [situated in Missouri];

(2) "Affiliate":

(a) Any entity that directly controls, or is controlled by, the licensee and any other company that is directly affecting activities regulated by sections 443.800 to 443.893 that is controlled by the company that controls the licensee;

(b) Any entity:

a. That is controlled, directly or indirectly, by a trust or otherwise by, or for the benefit of, shareholders who beneficially, or otherwise, control, directly or indirectly, by trust or otherwise, the licensee or any company that controls the licensee; or

b. A majority of the directors or trustees of which constitute a majority of the persons holding any such office with the licensee or any company that controls the licensee;

(c) Any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the licensee or any subsidiary or affiliate of the licensee;

(3) "Annual audit", a certified audit of the licensee's books and records and systems of internal control performed by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards;

(4) "Board", the residential mortgage [licensing] board, created in section 443.816;

(5) "Borrower", the person or persons who use the services of a loan broker, originator or lender;

(6) "Director", the director of the division of finance within the department of economic development;

(7) "Escrow agent", a third party, individual or entity, charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of those funds in accordance with the terms of the residential mortgage loan;

(8) "Exempt entity":

(a)], the following entities:

[a.] (a) Any [banking organization] **bank or trust company organized under the laws of this or any other state or any national bank** or any foreign banking corporation licensed by the division of finance or the United States Comptroller of the Currency to transact business in this state;

[b. Any national bank, federally chartered savings and loan association, federal savings bank or federal credit union;

c. Any pension trust, bank trust or bank trust company;

d.] **(b)** Any **state or federal** savings and loan association, savings bank or credit union [organized under the laws of this or any other state] or any consumer finance company licensed under sections 367.100 to 367.215, RSMo, [and sections 408.231 to 408.240, RSMo] **which is actively engaged in consumer credit lending;**

[e.] **(c)** Any insurance company authorized to transact business in this state;

[f.] **(d)** Any [entity] **person** engaged solely in commercial mortgage lending or any person [or entity] making or acquiring residential or commercial construction loans with the person's [or entity's] own funds for the person's [or entity's] own investment;

[g.] **(e)** Any service corporation of a **federally chartered or state chartered** savings and loan association [or], savings bank [organized under the laws of this state or the service corporation of a federally chartered savings and loan association or savings bank] or [any] credit union [association organized under the laws of this state or owned primarily by credit unions and subsidiaries of such credit union associations];

[h.] **(f)** Any first-tier subsidiary of a **national or state** bank[, the charter of which is issued under the laws of this state by the board or the first-tier subsidiary of a bank chartered by the United States Comptroller of the Currency, the Federal Reserve Board or other appropriate federal regulatory agency and] that has its principal place of business in this state, provided that [the] **such** first-tier subsidiary is regularly examined by the division of finance or the Comptroller of the Currency or a consumer compliance examination **of it** is regularly conducted by the Federal Reserve [Board];

[i.] **(g)** Any [entity] **person** engaged solely in the business of securing loans on the secondary market **provided such person does not make decisions about the extension of credit to the borrower;**

[j.] **(h)** Any mortgage banker as defined in subdivision (19) of this subsection; or

[k.] **(i)** Any wholesale mortgage lender who purchases mortgage loans originated by a licensee **provided such wholesale lender does not make decisions about the extension of credit to the borrower;**

[l.] **(j)** Any person [or entity] making or acquiring residential mortgage loans with the person's [or entity's] own funds for the person's [or entity's] own investment;

[m.] **(k)** Any person employed or contracted by a licensee to assist in the performance of the activities regulated by sections 443.800 to 443.893 who is compensated in any manner by only one licensee;

[n.] **(l)** Any person licensed pursuant to the real estate agents and brokers licensing law, chapter 339, RSMo, who engages in servicing or the taking of applications and credit and appraisal information to forward to a licensee or an exempt entity [as defined in this subdivision under the provisions of sections 443.800 to 443.893] for transactions in which the licensee is acting as a real estate broker and who is compensated by either a licensee or an exempt entity [under the provisions of sections 443.800 to 443.893];

[o.] **(m)** Any [individual, corporation, partnership or other entity that] **person who** originates, services or brokers residential mortgage loans[, as such activities are defined in sections 443.800 to 443.893,] and who receives no compensation for those activities, subject to the director's regulations regarding the nature and amount of compensation;

(9) "Financial institution", a savings and loan association, savings bank, credit union, **mortgage banker** or [a] bank organized under the laws of Missouri or [a savings and loan association, savings bank, credit union or a bank organized under] the laws of the United States with its principal place of business in Missouri;

(10) "First-tier subsidiary", as defined by administrative rule promulgated by the director;

(11) "Full-service office", office and staff in Missouri reasonably adequate to handle efficiently communications, questions and other matters relating to any application for a **new**, or [an] existing, home mortgage [secured by residential real estate situated in Missouri with

respect to] **loan** which the licensee is brokering, funding, originating, purchasing or servicing. The management and operation of each full-service office must include observance of good business practices such as adequate, organized and accurate books and records, ample phone lines, hours of business, staff training and supervision and provision for a mechanism to resolve consumer inquiries, complaints and problems. The director shall promulgate regulations with regard to the requirements of this subdivision and shall include an evaluation of compliance with this subdivision in the periodic examination of the licensee;

(12) "Government-insured mortgage loan", any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or Farmers Home Loan Administration, or guaranteed by the Veterans Administration;

(13) "Lender", any person[, partnership, association, corporation or any other entity] who either lends **money for** or invests money in residential mortgage loans;

(14) "Licensee" or "residential mortgage licensee", a person[, partnership, association, corporation or any other entity] who[, or which,] is licensed [pursuant to sections 443.800 to 443.893] to engage in the activities regulated by sections 443.800 to 443.893;

(15) "Loan broker" or "broker", a person[, partnership, association or corporation, other than persons, partnerships, associations or corporations] exempted from licensing pursuant to subdivision (8) of this subsection, who performs the activities described in subdivisions (17) and (31) of this subsection;

(16) "Loan brokerage agreement", a written agreement in which a broker [or loan broker] agrees to do either of the following:

(a) Obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or

(b) Consider making a residential mortgage loan to the borrower;

(17) "Loan brokering", "mortgage brokering", or "mortgage brokerage service", the act of helping to obtain for an investor [or other entity,] or from an investor [or other entity] for a borrower, a loan secured by residential real estate situated in Missouri or assisting an investor [or other entity] or a borrower in obtaining a loan secured by residential real estate [situated in Missouri] in return for consideration;

(18) "Making a residential mortgage loan" or "funding a residential mortgage loan", for compensation or gain, either, directly or indirectly, advancing funds or making a commitment to [advance funds to a loan] **an** applicant for a residential mortgage loan;

(19) "Mortgage banker", a mortgage loan company which is subject to licensing, supervision, or annual audit requirements by the Federal National Mortgage Association (FNMA), or the Federal Home Loan Mortgage Corporation (FHLMC), or the United States Veterans Administration (VA), or the United States Department of Housing and Urban Development (HUD), or a successor of any of the foregoing agencies or entities, as an approved lender, loan correspondent, seller, or servicer;

(20) "Mortgage loan", "residential mortgage loan" [or "home mortgage loan"], a loan to, or for the benefit of, any natural person made primarily for personal, family or household use, including a reverse mortgage loan, primarily secured by either a mortgage or reverse mortgage on residential real property or certificates of stock or other evidence of ownership interests in, and proprietary leases from, corporations or partnerships formed for the purpose of cooperative ownership of residential real property[, all located in Missouri];

(21) "Net worth", as provided in section 443.859;

(22) "Originating", the advertising, soliciting, taking applications, processing, closing, or issuing of commitments for, and funding of, residential mortgage loans;

(23) "Party to a residential mortgage financing transaction", a borrower, lender or loan broker in a residential mortgage financing transaction;

(24) "Payments", payment of all, or any part of, the following: principal, interest and escrow reserves for taxes, insurance and other related reserves and reimbursement for lender advances;

(25) **"Person", any individual, firm, partnership, corporation, company or association and the legal successors thereof;**

(26) **"Personal residence address"**, a street address, but shall not include a post office box number;

[(26)] (27) **"Purchasing"**, the purchase of conventional or government-insured mortgage loans secured by residential real estate [situated in Missouri] from either the lender or from the secondary market;

[(27)] (28) **"Residential mortgage board"**, the residential mortgage board created in section 443.816;

[(28)] (29) **"Residential mortgage financing transaction"**, the negotiation, acquisition, sale or arrangement for, or the offer to negotiate, acquire, sell or arrange for, a residential mortgage loan or residential mortgage loan commitment;

[(29)] (30) **"Residential mortgage loan commitment"**, a written conditional agreement to finance a residential mortgage loan;

[(30)] (31) **"Residential real property" or "residential real estate"**, real property located in this state improved by a one-family to four-family dwelling;

[(31)] (32) **"Servicing"**, the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder or for a licensee's own account, of payments, interests, principal and trust items such as hazard insurance and taxes on a residential mortgage loan [in accordance with the terms of the residential mortgage loans,] and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing;

[(32)] (33) **"Soliciting, processing, placing or negotiating a residential mortgage loan"**, for compensation or gain, either, directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower including, but not limited to, the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, **and** including a closing in the name of a broker;

[(33)] (34) **"Ultimate equitable owner"**, a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies or other entities or devices, or any combination thereof.

2. The director may define by [rules and regulations] **rule** any terms used in sections 443.800 to 443.893 for [the] efficient and clear administration [of sections 443.800 to 443.893].

443.805. LICENSE REQUIRED TO BROKER RESIDENTIAL MORTGAGE, EXCEPTIONS. —

1. No person[, partnership, association, corporation or other entity] shall engage in the business of brokering, funding, originating, servicing or purchasing of residential mortgage loans [for property located in Missouri] without first obtaining a license from the director, pursuant to [the provisions of] sections 443.800 to 443.893 and the regulations promulgated thereunder. The licensing provisions of sections 443.805 to 443.812 shall not apply to any entity engaged solely in commercial mortgage lending or to any person[, partnership, association, corporation or other] exempt [entity] as provided in section 443.803 or pursuant to regulations promulgated as provided in sections 443.800 to 443.893.

2. No person[, partnership, association, corporation, or other entity] except a licensee[, licensed pursuant to sections 443.800 to 443.893,] or [an] **exempt** entity [exempt from licensing pursuant to section 443.803] shall do any business under any name or title or circulate or use any

advertising or make any representation or give any information to any person which indicates or reasonably implies activity within the scope of the provisions of sections 443.800 to 443.893.

443.809. EXAMINATION, POWERS OF DIRECTOR TO INSPECT RECORDS OF UNLICENSED PERSONS TO DETERMINE LICENSING REQUIRED. — When the director has reasonable cause to believe that any [entity which] **person** has not submitted an application for licensure **and** is conducting any of the activities described in subsection 1 of section 443.805, the director may examine all books and records of the [entity] **person** and any additional documentation necessary [in order] to determine whether such [entity] **person** is required to be licensed pursuant to [the provisions of] sections 443.800 to 443.893.

443.810. PENALTY FOR VIOLATIONS. — [Beginning one year after the rules and regulations promulgated by the director which establish the initial licensing procedures are adopted by the joint committee on administrative rules] **Effective May 21, 1998**, any person[, partnership, association, corporation or other entity] who violates any provision of sections 443.805 to 443.812 [is] **shall be deemed** guilty of a class C felony.

443.812. ONE LICENSE ISSUED TO EACH BROKER — RECORD REQUIRED OF LOCATIONS WHERE ANY BUSINESS IS CONDUCTED. — 1. Only one license shall be issued to each person[, partnership, association, corporation or other entity] conducting activities regulated by sections 443.800 to 443.893. A [residential mortgage] licensee shall [record] **register with the director** each office, place of business or location [at which a residential mortgage licensee] **where the licensee** conducts any part of [the entity's] **the licensee's** business [with the director] pursuant to [the provisions of] section 443.839.

2. Licensees [under the provisions of sections 443.800 to 443.893] may only solicit, broker, fund, originate, serve and purchase residential mortgage loans in conformance with [the provisions of] sections 443.800 to 443.893 and such rules [and regulations that] **as** may be promulgated by the director thereunder.

443.819. BROKERAGE BUSINESS TO BE OPERATED UNDER ACTUAL NAMES OF PERSONS OR CORPORATIONS, VIOLATION, PENALTIES. — 1. No person[, partnership, association, corporation or other entity] engaged in a business regulated by sections 443.800 to 443.893 shall operate such business under a name other than the real names of the [individuals] **persons** conducting such business, a corporate name adopted pursuant to chapter 351, RSMo, or a fictitious name registered with the secretary of state's office.

2. Any person who knowingly violates this section [is] **shall be deemed** guilty of a class A misdemeanor. A person who is convicted of a second or subsequent violation of this section [is] **shall be deemed** guilty of a class C felony.

443.821. LICENSE TO BE ISSUED ON COMPLETION OF REQUIREMENTS — NOTICE OF DENIAL OF LICENSE TO CONTAIN REASONS — APPEAL PROCEDURE. — The director shall issue a license upon completion of the following:

- (1) The filing of an application [for license];
- (2) The filing with the director of a listing of judgments entered against, and bankruptcy petitions by, the [license] applicant for the preceding seven years;
- (3) The payment of investigation and application fees to be established by administrative rule; and
- (4) An investigation of the averments required by section 443.827, which investigation must allow the director to issue positive findings stating that the financial responsibility, experience, character and general fitness of the [license] applicant, and of the members thereof, if the [license] applicant is a partnership or association, and of the officers and directors thereof

if the [license] applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the scope of sections 443.800 to 443.893. If the director does not find the applicant's business and personal conduct warrants the issuance of a license, the director shall notify the [license] applicant of the denial with the reasons stated for such denial. An applicant may appeal such denial to the board.

443.825. APPLICATION CONTENT, OATH AND FORM. — 1. Application for a [residential mortgage] license shall be made as provided in sections 443.833 and 443.835. The application shall be in writing, made under oath, and on a form provided by the director.

2. The application shall contain the name and complete business and residential address or addresses of the [license] applicant. If the [license] applicant is a partnership, association, corporation or other form of business organization, the application shall contain the names and complete business and residential addresses of each member, director and principal officer of such entity. Such application shall also include a description of the activities of the [license] applicant, in such detail and for such periods as the [board] **director** may require, including all of the following:

(1) An affirmation of financial solvency noting such capitalization requirements as may be required by the director, and access to such credit as may be required by the director;

(2) An affirmation that the [license] applicant or the applicant's members, directors or principals, as may be appropriate, are at least eighteen years of age;

(3) Information as to the character, fitness, financial and business responsibility, background, experience and criminal records [if] **of** any:

(a) Person, entity or ultimate equitable owner that owns or controls, directly or indirectly, ten percent or more of any class of stock of the [license] applicant;

(b) Person, entity or ultimate equitable owner that is not a depository institution that lends, provides or infuses, directly or indirectly, in any way, funds to or into [a license] **an** applicant, in an amount equal to, or more than, ten percent of the [license] applicant's net worth;

(c) Person, entity or ultimate equitable owner that controls, directly or indirectly, the election of twenty-five percent or more of the members of the board of directors of [a license] **the** applicant; [or] **and**

(d) Person, entity or ultimate equitable owner that the director finds influences management of the [license] applicant.

443.827. APPLICANT FOR LICENSE MUST AGREE TO MAINTAIN CERTAIN REQUIREMENTS AS TO METHODS OF CONDUCTING BUSINESS. — Each [applicant for a license issued pursuant to sections 443.800 to 443.893] **application** shall be accompanied by [the following] **an** averment [stating] that the applicant:

(1) Will maintain at least one full-service office within the state of Missouri as provided in section 443.857;

(2) Will maintain staff reasonably adequate to meet the requirements of section 443.857;

(3) Will keep and maintain for thirty-six months the same written records as required by the federal Equal Credit Opportunity Act, 15 U.S.C. 1691, et seq., and any other information required by [regulations] **rules** of the director [regarding any home mortgage in the course of the conduct of the applicant's residential mortgage business];

(4) Will **timely** file [with the director, when due,] any report [or reports which the applicant is] required [to file under any of] **pursuant to** sections 443.800 to 443.893;

(5) Will not engage, whether as principal or agent, in the practice of rejecting residential mortgage applications [without reasonable cause,] or varying terms or application procedures without reasonable cause, [for home mortgages] on real estate within any specific geographic area from the terms or procedures generally provided by the licensee within other geographic areas of the state;

- (6) Will not engage in fraudulent home mortgage underwriting practices;
- (7) Will not make payments, whether directly or indirectly, of any kind to any in-house or fee appraiser of any government or private money lending agency with which an application for a home mortgage has been filed for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by such home mortgage;
- (8) Has filed tax returns, both state and federal, for the past three years or filed with the director a personal, an accountant's or attorney's statement as to why no return was filed;
- (9) Will not engage in any [discriminating or redlining] activities prohibited by section 443.863;
- (10) Will not knowingly misrepresent, circumvent or conceal[, through whatever subterfuge or device,] any [of the] material particulars[, or the nature thereof,] regarding a transaction to which the applicant is a party [which could injure another party to such transaction];
- (11) Will disburse funds in accordance with the applicant's agreements through a licensed and bonded disbursing agent or licensed real estate broker;
- (12) Has not committed any crime against the laws of this state, or any other state or of the United States, involving moral turpitude, fraudulent or dishonest dealings and that no final judgment has been entered against the applicant in a civil action upon grounds of fraud, misrepresentation or deceit which has not been previously reported to the director;
- (13) Will account [or] **for and** deliver to any person any personal property, including, but not limited to, money, funds, deposits, checks, drafts, mortgages[, any other document] or **any other** thing of value, which has come into the applicant's possession and which is not the applicant's property or which the applicant is not in law or equity entitled to retain under the circumstances, at the time which has been agreed upon or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;
- (14) Has not engaged in any conduct which would be cause for denial of a license;
- (15) Has not become insolvent;
- (16) Has not submitted an application [for a license under the provisions of sections 443.800 to 443.893] which contains a material misstatement;
- (17) Has not demonstrated [by a course of conduct,] negligence or incompetence in the performance of any activity [for which the applicant is] required to hold a license under sections 443.800 to 443.893;
- (18) Will advise the director in writing of any changes to the information submitted on the most recent application for license within forty-five days of such change. The written notice must be signed in the same form as the application for the license being amended;
- (19) Will comply with the provisions of sections 443.800 to 443.893, or with any lawful order[, or rule [or regulation] made [or issued under the provisions of sections 443.800 to 443.893] **thereunder**;
- (20) When probable cause exists, will submit to periodic examinations by the director as required by sections 443.800 to 443.893; and
- (21) Will advise the director in writing of any judgments entered against, and bankruptcy petitions by, the license applicant within five days of the occurrence of the judgment or petition.

443.833. RENEWAL OF LICENSE, DATE, PROCEDURE, FEE — FAILURE TO RENEW, LICENSE BECOMES INACTIVE, REACTIVATION — EXPIRES, WHEN. — 1. Licenses [issued pursuant to sections 443.800 to 443.893] shall be renewed on the first anniversary of the date of issuance and every two years thereafter. [The applicant for renewal of a license issued pursuant to sections 443.800 to 443.893 shall complete a] Renewal application [form] **forms** and [submit the filing] fees **shall be submitted** to the director at least sixty days before the renewal date.

2. The director shall send [notices to the licensees of the renewal date of their license] **notice** at least ninety days before the licensee's renewal date, but failure to send or receive such

notice is no defense for failure to timely renew [a license issued pursuant to sections 443.800 to 443.893], except [that, if the licensee requests] **when** an extension for good cause [and such extension] is granted by the director. If the director does not grant an extension and the licensee fails to submit a completed renewal application form and the proper fees in a timely manner, the director may assess additional fees as follows:

(1) A fee of five hundred dollars shall be assessed the licensee thirty days after the proper renewal date, and one thousand dollars each month thereafter, until the license is either renewed or expires pursuant to subsections 3 and 4 of this section;

(2) Such fee shall be assessed without prior notice to the licensee, but shall be assessed only in cases where the director [has in the director's possession] **possesses** documentation of the licensee's continuing activity for which the unexpired license was issued.

3. A license which is not renewed by the date required in this section shall automatically become inactive. No activity regulated by sections 443.800 to 443.893 shall be conducted by the licensee when a license becomes inactive. An inactive license may be reactivated by filing a completed reactivation application with the director, payment of the renewal fee, and payment of a reactivation fee equal to the renewal fee.

4. A license which is not renewed within one year of becoming inactive shall expire.

443.839. APPLICATION BY LICENSEE TO OPEN ADDITIONAL FULL-SERVICE OFFICES, FEE — CERTIFICATE TO BE ISSUED AND POSTED. — 1. A licensee may apply for authority to open and maintain additional [full-service] offices [if the licensee] **by**:

(1) [Gives] **Giving** the director prior notice of the licensee's intention in such form as prescribed by the director;

(2) [Pays] **Paying** a fee to be established by the director by administrative rule.

2. Upon receipt of the notice and fee required by subsection 1 of this section, the director shall issue a certificate for the additional [full-service] office. The certificate shall be conspicuously displayed in the respective additional [full-service] office.

443.841. LICENSE TO BE DISPLAYED — OUT-OF-STATE TO PRODUCE ON REQUEST — LICENSE CONTENT. — The license [of a licensee whose principal place of business is within the state of Missouri or of an out-of-state licensee] shall be conspicuously displayed in every **Missouri** office [of the licensee located in Missouri. Out-of-state licensees without a Missouri office shall produce the license upon request]. The license shall state the full name and address of the licensee. The license shall not be transferable or assignable. A separate certificate shall be issued for display in each [full-service] Missouri office.

443.849. BONDING REQUIREMENTS. — [1. Any person who is licensed pursuant to the provisions of sections 443.800 to 443.893, if such person is appointed or elected to any position requiring the receipt of payment, management or use of any money belonging to a residential mortgage licensee engaged in the activities of originating, servicing or purchasing mortgage loans or whose duties permit such person to have access to, or custody of, any of the licensee's money or securities or custody of any money or securities belonging to third parties or whose duties permit such person to regularly make entries in the books or other records of a licensee, shall before assuming such person's duties, maintain a surety bond in the amount of twenty thousand dollars by a fidelity insurance company licensed to do business in this state or a letter of credit in such amount issued by a financial institution that is insured by the Federal Deposit Insurance Corporation.

2. Each bond shall be for any loss the licensee may sustain in money or other property through the commission of any dishonest or criminal act or omission by any person required to be bonded, whether committed alone or in concert with another. The bond shall be in the form and amount approved by the director. The director may at any time require a licensee to have one or more additional bonds. A true copy of every bond, including all riders and endorsements

executed subsequent to the effective date of the bond, shall be filed at all times with the director. Each bond shall provide that a cancellation thereof shall not become effective unless and until thirty days' notice, in writing, shall first be given to the director, unless the director had previously approved the cancellation. If the director believes the licensee's business is being conducted in an unsafe manner due to the lack of bonds or the inadequacy of bonds, the director may proceed against the licensee as provided in section 443.879.

3. All licensees shall maintain a bond in accordance with this section. Each bond shall be for the recovery of any expenses, damages or fees owed to, or levied by, the director in accordance with this section. The bond shall be payable when the licensee fails to comply with any provision of sections 443.800 to 443.893 and shall be in the form of a surety or licensure bond in the amount and form as prescribed by the director pursuant to rules and regulations. The bond shall be payable to the director and shall be issued by some insurance company authorized to do business in this state. A copy of the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be placed on file with the director within ten days of the execution thereof.

4. The director may promulgate rules with respect to bonding requirements for residential mortgage licenses as are reasonable and necessary to accomplish the purposes of sections 443.800 to 443.893.] **A corporate surety bond in the principal sum of twenty thousand dollars shall accompany each application for a license. The bond shall be in form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state, to secure the faithful performance of the obligations of the applicant and the agents and subagents of the applicant in connection with the activities of originating, servicing or acquiring mortgage loans. An applicant or licensee may, in lieu of filing the bond required pursuant to this section, provide the director with a twenty thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any financial institution.**

443.851. AUDIT REQUIRED ANNUALLY OF LICENSEE'S BOOKS AND ACCOUNTS — SCOPE OF AUDIT — FILED WITH DIRECTOR, AUTHORITY FOR RULES — ALTERNATIVE TO AUDIT REQUIREMENTS. — 1. At the end of the licensee's fiscal year, but in no case more than twelve months after the last audit conducted pursuant to this section and section 443.853, each [residential mortgage] licensee shall cause the licensee's books and accounts to be audited by a certified public accountant not connected with such licensee. The books and records of all [persons licensed pursuant to sections 443.800 to 443.893] **licensees** shall be maintained on an accrual basis. The audit shall be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements in the report and must be performed in accordance with generally accepted accounting principles and generally accepted auditing standards.

2. As used in this section and section 443.853, the term "expression of opinion" includes either:

- (1) An unqualified opinion;
- (2) A qualified opinion;
- (3) A disclaimer of opinion; or
- (4) An adverse opinion.

3. If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefor shall be fully explained. An opinion, qualified as to a scope limitation, shall not be acceptable.

4. The audit report shall be filed with the director within one hundred twenty days of the audit date. The report filed with the director shall be certified by the certified public accountant conducting the audit. The director may promulgate rules regarding late audit reports.

5. As an alternative to the audit requirements of subsections 1 to 4 of this section, a licensee may post a corporate surety bond, in addition to that described in section 443.849, in the amount of one hundred thousand dollars. The bond shall be in form satisfactory

to the director and shall be issued by a bonding company or insurance company authorized to do business in this state, to secure the faithful performance of the obligations of the licensee, its agents and subagents in connection with the activities of originating, servicing or acquiring mortgage loans. A licensee may, in lieu of this bond, provide the director with a one hundred thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any financial institution.

443.855. ADVERTISING POLICIES TO BE ESTABLISHED BY DIRECTOR — STANDARDS REQUIRED — OTHER RULES AUTHORIZED. — In addition to such other rules[, regulations and policies as] the director may promulgate to effectuate [the purpose of] sections 443.800 to 443.893, the director shall prescribe [regulations] **rules** governing the advertising of mortgage loans, including, without limitation, the following requirements:

(1) Advertising for loans transacted pursuant to the requirements of sections 443.800 to 443.893 may not be false, misleading or deceptive. No [entity] **person** whose activities are regulated pursuant to the provisions of sections 443.800 to 443.893 may advertise in any manner so as to indicate or imply that the [entity's] **person's** interest rates or charges for loans are in any way recommended, approved, set or established by the state or by the provisions of sections 443.800 to 443.893;

(2) All advertisements by a licensee shall contain the name and an office address of such entity, which shall conform to a name and address on record with the director[;

(3) No licensee shall advertise the licensee's services in Missouri in any medium, whether print or electronic, without the words "Missouri Residential Mortgage Licensee"].

443.857. LICENSEE SHALL MAINTAIN AT LEAST ONE FULL-SERVICE OFFICE WITH STAFF, DUTIES TO HANDLE MATTERS RELATING TO MORTGAGE. — Each [residential mortgage] licensee shall maintain, in the state of Missouri, at least one full-service office with staff reasonably adequate to efficiently handle [communication, questions and] all [other] matters relating to any **proposed or** existing home mortgage with respect to which such licensee is performing services[, regardless of kind, for any borrower or lender, noteowner or noteholder or for himself or herself while engaged in the residential mortgage business].

443.859. NET WORTH REQUIREMENT FOR LICENSEES. — [Beginning one year after the rules and regulations promulgated by the director which establish the initial licensing procedures are adopted by the joint committee on administrative rules] **Effective May 21, 1998**, every [residential mortgage] licensee shall have and maintain a net worth of not less than twenty-five thousand dollars. The director may promulgate rules with respect to net worth definitions and requirements for [residential mortgage] licensees as necessary to accomplish the purposes of sections 443.800 to 443.893. In lieu of the net worth requirement established by this section, the director may accept evidence of conformance by the licensee with the net worth requirements of the United States Department of Housing and Urban Development.

443.863. UNLAWFUL DISCRIMINATION FOR REFUSAL TO LOAN OR VARY TERMS OF THE LOAN. — It is [considered discriminatory] **unlawful discrimination** to refuse [to grant] loans or to vary the terms of loans or the application procedures for loans because of:

(1) [In the case of the proposed borrower, such] **The** borrower's race, color, religion, national origin, age, gender or marital status; or

(2) [In the case of a mortgage loan, solely] The geographic location of the proposed security.

443.867. DISCLOSURE STATEMENT REQUIRED OF LICENSEES, CONTENT — FILED AT TIME OF APPLICATION. — At the time of application [all], **each** residential mortgage [licensees

who are brokers] **licensee which is a broker** shall disclose, within the loan brokerage disclosure statement, that:

- (1) The [licensees do] **licensee does** not make loans; and
- (2) [That actual] **The** funds are provided by another [entity, and such entity] **person which** may affect availability of funds.

443.869. POWERS AND DUTIES OF DIRECTOR — RULEMAKING AUTHORITY. — 1. The functions, powers and duties of the director shall include the following:

- (1) To issue or refuse to issue any license as provided in sections 443.800 to 443.893;
- (2) To revoke or suspend for cause any license issued pursuant to sections 443.800 to 443.893;
- (3) To keep records of all licenses issued pursuant to sections 443.800 to 443.893;
- (4) To receive, consider, investigate and act upon complaints made by any person in connection with any residential mortgage licensee in this state;
- (5) To consider and act upon any recommendations from the residential mortgage board;
- (6) To prescribe the forms of and receive:
 - (a) Applications for licenses; and
 - (b) All reports and all books and records required to be made by any residential mortgage licensee pursuant to the provisions of sections 443.800 to 443.893, including annual audited financial statements;
- (7) To adopt rules [and regulations] necessary and proper for the administration of sections 443.800 to 443.893;
- (8) To subpoena documents and witnesses and compel their attendance and production, to administer oaths and to require the production of any books, papers or other material relevant to any inquiry authorized by sections 443.800 to 443.893;
- (9) To require information with regard to any [license] applicant as the director may deem desirable, with due regard to the paramount interests of the public [as to], **about** the experience, background, honesty, truthfulness, integrity and competency of the [license] applicant [as to] **concerning** financial transactions involving primary or subordinate mortgage financing and where the [license] applicant is an entity other than an individual, as to the honesty, truthfulness, integrity and competency of any officer or director of the corporation, association or other entity or the members of a partnership;
- (10) To examine the books and records of every [residential mortgage] licensee at intervals as provided by sections 443.800 to 443.893 and the rules promulgated thereunder;
- (11) To enforce the provisions of sections 443.800 to 443.893;
- (12) To levy fees and charges for services performed in administering the provisions of sections 443.800 to 443.893. The aggregate of all fees collected by the director shall be deposited promptly after receipt and accompanied by a detailed statement of such receipts in the residential mortgage licensing fund;
- (13) To appoint a staff which may include an executive director, examiners, supervisors, experts, special assistants and any necessary support staff as needed to effectively and efficiently administer the provisions of sections 443.800 to 443.893; and
- (14) To conduct hearings for such purposes as the director deems appropriate.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

443.879. REPORTS REQUIRED, FAILURE TO COMPLY, PENALTY. — 1. In addition to any reports required pursuant to sections 443.800 to 443.893, every [residential mortgage] licensee shall file such other reports as the director shall request.

2. Any licensee or any officer, director, employee or agent of any licensee who fails to file any reports required by sections 443.800 to 443.893[, including those required by subsection 1 of this section,] or who shall deliberately, willfully or knowingly make, subscribe to or cause to be made any false entry with intent to deceive the director or the director's appointees or who shall purposely cause [unreasonable] delay in filing such reports [is] **shall be deemed** guilty of a class A misdemeanor.

443.881. SUSPENSION OR REVOCATION OF LICENSE, GROUNDS — PROCEDURE, PENALTIES. — 1. Upon written notice to a [residential mortgage] licensee, the director may suspend or revoke any license issued pursuant to sections 443.800 to 443.893 if the director makes a finding of one or more of the following in the notice that:

(1) Through separate acts or an act or a course of conduct, the licensee has violated any provision of sections 443.800 to 443.893, any rule [or regulation] promulgated by the director or any other law[,] **or** rule [or regulation] of this state or the United States;

(2) Any fact or condition exists which, if it had existed at the time of the original application for such license would have warranted the director in refusing originally to issue such license;

(3) If a licensee is other than an individual, any ultimate equitable owner, officer, director or member of the licensed partnership, association, corporation or other entity has so acted or failed to act as would be cause for suspending or revoking a license to that party as an individual.

2. No license shall be suspended or revoked, except as provided in this section, nor shall any [residential mortgage] licensee be subject to any other disciplinary proceeding without notice of the licensee's right to a hearing as provided in sections 443.800 to 443.893.

3. The director, on good cause shown that an emergency exists, may suspend any license for a period not to exceed thirty days, pending an investigation.

4. The provisions of section 443.835 shall not affect a residential mortgage licensee's civil or criminal liability for acts committed before such licensee surrenders the [licensee's] license.

5. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the [residential mortgage] licensee and any person.

6. Every license issued pursuant to sections 443.800 to 443.893 shall remain in force and effect until the license has expired without renewal, has been surrendered, revoked or suspended in accordance with the provisions of sections 443.800 to 443.893, except that, the director may reinstate a suspended license or issue a new license to a licensee whose license has been revoked if no fact or condition exists which would have warranted the director to refuse originally to issue such license pursuant to sections 443.800 to 443.893.

7. Whenever the director revokes or suspends a license issued pursuant to sections 443.800 to 443.893, the director shall execute in duplicate a written order to that effect. The director shall publish notice of such order in a newspaper of general circulation in the county in which the residential mortgage licensee's business is located and shall serve a copy of such order upon the licensee. Such order may be reviewed by the board.

8. When the director finds any person in violation of the grounds provided in subsection 9 of this section, the director may enter an order imposing one or more of the following disciplinary actions:

(1) Revocation of the license;

(2) Suspension of the license subject to reinstatement upon satisfying all reasonable conditions the director may specify;

(3) Placement of the [residential mortgage] licensee [or applicant] on probation for a period of time and subject to any reasonable conditions as the director may specify;

- (4) Issuance of a reprimand; and
- (5) Denial of a license.

9. The following acts shall constitute grounds for which the disciplinary actions specified in subsection 8 of this section may be taken:

(1) Being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction which involves fraud, dishonest dealings, or any other act involving moral turpitude;

(2) Fraud, misrepresentation, deceit or negligence in any mortgage financing transaction;

(3) A material or intentional misstatement of fact on an initial or renewal application;

(4) Failure to follow the director's [regulations] **rules** with respect to placement of funds in escrow accounts;

(5) Insolvency or filing under any provision of the United States Bankruptcy Code as a debtor;

(6) Failure to account or deliver to any person any property such as any money, funds, deposits, checks, drafts, mortgages or any other documents or things of value, which has come into the [person's hands] **licensee's possession** and which is not the person's property or which the [person] **licensee** is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;

(7) Failure to disburse funds in accordance with agreements;

(8) Any misuse, misapplication or misappropriation of trust funds or escrow funds;

(9) Having a license, or the equivalent, to practice any profession or occupation revoked, suspended or otherwise acted against, including the denial of licensure by a licensing authority of this state or another state, territory or country for fraud, dishonest dealings or any other act involving moral turpitude;

(10) Failure to issue a satisfaction of mortgage when the [residential] mortgage has been executed and proceeds were not disbursed to the benefit of the mortgagor and when the mortgagor has fully paid the [residential mortgage] licensee's costs and commission;

(11) Failure to comply with any order of the director or rule made or issued pursuant to the provisions of sections 443.800 to 443.893;

(12) Engaging in activities regulated by sections 443.800 to 443.893 without a current, active license unless specifically exempted by the provisions of sections 443.800 to 443.893;

(13) Failure to pay [in a] timely [manner] any fee or charge due under the provisions of sections 443.800 to 443.893;

(14) Failure to maintain, preserve and keep available for examination, all books, accounts or other documents required by the provisions of sections 443.800 to 443.893 and the rules of the director;

(15) Refusal to permit an investigation or examination of the licensee's or the licensee's affiliates' books and records or refusal to comply with the director's subpoena or subpoena duces tecum;

(16) A pattern of substantially underestimating [the maximum] closing costs;

(17) Failure to comply with, or any violation of, any provision of sections 443.800 to 443.893.

10. A licensee shall be subject to the disciplinary actions specified in sections 443.800 to 443.893 for a violation of subsection 9 of this section by any officer, director, shareholder, joint venture, partner, ultimate equitable owner or employee of the licensee.

11. Such licensee shall be subject to suspension or revocation for employee actions only if there is a pattern of repeated violations by **an employee or** employees or the licensee has knowledge of the violation.

12. The procedures for the surrender of a license shall be:

(1) The director may, after ten days' notice by certified mail to the licensee at the address set forth on the license, stating the contemplated action and, in general, the grounds for such action and the date, time and place of a hearing on the action, and after providing the licensee

with a reasonable opportunity to be heard prior to such action, revoke or suspend any license issued pursuant to sections 443.800 to 443.893 if the director finds that:

(a) The licensee has failed to comply with any provision of sections 443.800 to 443.893 or any order, decision, finding, rule[, regulation] or direction of the director lawfully made pursuant to the authority of sections 443.800 to 443.893; or

(b) Any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the director to refuse to issue the license;

(2) Any licensee may surrender a license by delivering to the director written notice that the licensee thereby surrenders such license, but surrender shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the license fee.

443.887. GENERAL RULEMAKING POWERS OF DIRECTOR. — 1. In addition to such other powers as may be prescribed by sections 443.800 to 443.893, the director may promulgate [regulations] **rules** consistent with the purpose of sections 443.800 to 443.893, including, but not limited to:

(1) Such rules [and regulations] in connection with the activities of licensees as may be necessary and appropriate for the protection of consumers in this state;

(2) Such rules [and regulations] as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of licensees [in making mortgage loans];

(3) Such rules [and regulations] as may define the terms used in sections 443.800 to 443.893 and as may be necessary and appropriate to interpret and implement the provisions of sections 443.800 to 443.893; and

(4) Such rules [and regulations] as may be necessary for the enforcement of sections 443.800 to 443.893.

2. The director may make such specific ruling, demands and findings as the director may deem necessary for the proper conduct of the mortgage lending industry.

Approved July 10, 2001

SB 540 [SB 540]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits the Department of Revenue from collecting information which can individually identify a person.

AN ACT to repeal section 32.091, RSMo 2000, relating to motor vehicle records, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

32.091. Definitions — disclosure of individual motor vehicle records, when — certain disclosures prohibited without express consent — disclosure pursuant to United States law — disclosure for purposes of public safety — certain information not to be collected, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 32.091, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 32.091, to read as follows:

32.091. DEFINITIONS — DISCLOSURE OF INDIVIDUAL MOTOR VEHICLE RECORDS, WHEN — CERTAIN DISCLOSURES PROHIBITED WITHOUT EXPRESS CONSENT — DISCLOSURE PURSUANT TO UNITED STATES LAW — DISCLOSURE FOR PURPOSES OF PUBLIC SAFETY — CERTAIN INFORMATION NOT TO BE COLLECTED, WHEN. — 1. As used in sections 32.090 and 32.091, the following terms mean:

(1) "Motor vehicle record", any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration or identification card issued by the department of revenue;

(2) "Person", an individual, organization or entity, but does not include a state or agency thereof;

(3) "Personal information", information that identifies an individual, including an individual's photograph, Social Security number, driver identification number, name, address, but not the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations and driver's status.

2. The department of revenue may disclose individual motor vehicle records pursuant to Section 2721(b)(11) of Title 18 of the United States Code and may disclose motor vehicle records in bulk pursuant to Section 2721(b)(12) of Title 18 of the United States Code, as amended by Public Law 106-69, Section 350, only if the department has obtained the express consent of the person to whom such personal information pertains.

3. Notwithstanding any other provisions of law to the contrary, the department of revenue shall not disseminate a person's driver's license photograph, Social Security number and medical or disability information from a motor vehicle record, as defined in Section 2725(1) of Title 18 of the United States Code without the express consent of the person to whom such information pertains, except for uses permitted under Sections 2721(b)(1), 2721(b)(4), 2721(b)(6) and 2721(b)(9) of Title 18 of the United States Code.

4. The department of revenue shall disclose any motor vehicle record or personal information permitted to be disclosed pursuant to Sections 2721(b)(1) to 2721(b)(10) and 2721(b)(13) to 2721(b)(14) of Title 18 of the United States Code except for the personal information described in subsection 3 of this section.

5. Pursuant to Section 2721(b)(14) of Title 18 of the United States Code, any person who has a purpose to disseminate to the public a newspaper, book, magazine, broadcast or other similar form of public communication, including dissemination by computer or other electronic means, may request the department to provide individual or bulk motor vehicle records, such dissemination being related to the operation of a motor vehicle or to public safety. Upon receipt of such request, the department shall release the requested motor vehicle records.

6. This section is not intended to limit media access to any personal information when such access is provided by agencies or entities in the interest of public safety and is otherwise authorized by law.

7. The department of revenue shall not collect from persons applying for any driver's license issued by the department any information by which such persons can be individually identified, unless the department has specific statutory authorization to collect such information; nor shall the department of revenue include on any driver's license, in print, magnetic, digital, or any other format, any information by which an individual may be identified, unless the department has specific statutory authorization to include such information.

Approved June 13, 2001

SB 543 [HCS SB 543]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain districts to transfer additional funds for capital purposes.

AN ACT to repeal section 165.011, RSMo 2000, relating to transfers of funds in certain school districts, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

165.011. Tuition — accounting of school moneys, funds — uses — transfers to and from incidental fund, when — effect of unlawful transfers — one-time transfer permitted, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 165.011, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 165.011, to read as follows:

165.011. TUITION — ACCOUNTING OF SCHOOL MONEYS, FUNDS — USES — TRANSFERS TO AND FROM INCIDENTAL FUND, WHEN — EFFECT OF UNLAWFUL TRANSFERS — ONE-TIME TRANSFER PERMITTED, WHEN. — 1. The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, free textbook fund, capital projects fund and debt service fund. The treasurer of the school district shall open an account for each fund specified in this section, and all moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund. All tuition fees, state moneys received under sections 162.975, RSMo, and 163.031, RSMo, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education. The portion of state aid received by the district pursuant to section 163.031, RSMo, based upon the portion of the tax rate in the debt service or capital projects fund, respectively, which is included in the operating levy for school purposes pursuant to section 163.011, RSMo, shall be placed to the credit of the debt service fund or capital projects fund, respectively. Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund. Money apportioned for free textbooks shall be credited to the free textbook fund. All money derived from taxation or received from any other source for the erection of buildings or additions thereto and the remodeling or reconstruction of buildings and the furnishing thereof, for the payment of lease-purchase obligations, for the purchase of real estate, or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities, furnishings and equipment by a school district as authorized under section 177.088, RSMo, shall be credited to the capital projects fund. Money derived from taxation for the retirement of bonds and the payment of interest thereon shall be credited to the debt service fund which shall be maintained as a separate bank account. Receipts from delinquent taxes shall be allocated to the several funds on the same basis as receipts from current taxes, except that where the previous years' obligations of the district would be affected by such distribution, the delinquent taxes shall be distributed according to the tax levies made for the years in which the obligations were incurred. All refunds received shall be placed to the credit of the fund from which the original expenditures were made. Money donated to the school districts shall be placed to the credit of the fund where it can be expended to meet the purpose

for which it was donated and accepted. Money received from any other source whatsoever shall be placed to the credit of the fund or funds designated by the board.

2. **(1)** The school board may expend from the incidental fund the sum that is necessary for the ordinary repairs of school property and an amount not to exceed the sum of expenditures for classroom instructional capital outlay, as defined by the department of elementary and secondary education by rule, in state-approved area vocational-technical schools and [.06 dollars per one hundred dollars equalized assessed valuation multiplied by the guaranteed tax base for the second preceding year multiplied by the number of resident and nonresident eligible pupils educated in the district for the second preceding year] **the greater of twenty-five percent of the guaranteed tax base for the preceding year or two and one-fourth percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year** for classroom instructional capital outlay, including but not limited to payments authorized pursuant to section 177.088, RSMo. Any and all payments authorized under section 177.088, RSMo, except as otherwise provided in this subsection, for the purchase or lease of sites, buildings, facilities, furnishings and equipment and all other expenditures for capital outlay shall be made from the capital projects fund. If a balance remains in the free textbook fund after books are furnished to pupils as provided in section 170.051, RSMo, it shall be transferred to the teachers' fund. The board may transfer the portion of the balance remaining in the incidental fund to the teachers' fund that is necessary for the total payment of all contracted obligations to teachers. If a balance remains in the debt service fund, after the total outstanding indebtedness for which the fund was levied is paid, the board may transfer the unexpended balance to the capital projects fund. If a balance remains in the bond proceeds after completion of the project for which the bonds were issued, the balance shall be transferred from the incidental or capital projects fund to the debt service fund. After making all placements of interest otherwise provided by law, a school district may transfer from the capital projects fund to the incidental fund the interest earned from undesignated balances in the capital projects fund. All other sections of the law notwithstanding, a school district may transfer from the incidental fund to the capital projects fund an amount equal to the capital expenditures for school safety and security purposes. A school district may borrow from one of the following funds: teachers' fund, incidental fund or capital projects fund, as necessary to meet obligations in another of those funds; provided that the full amount is repaid to the lending fund within the same fiscal year.

(2) No school district shall make any expenditure for any lease purchase obligation authorized pursuant to section 177.088, RSMo, and incurred on or after January 1, 1997, from the district's capital projects fund unless the district levies, in the current year, a tax rate in the capital projects fund which is sufficient to generate revenues equal to or greater than the amount of such expenditure and collects such revenues and credits such revenues to the capital projects fund. For the purposes of subsection 8 of this section, any expenditure made in violation of this subdivision shall be considered a transfer of funds performed in violation of this section and that amount shall be deducted from the school district's state aid calculated pursuant to section 163.031, RSMo, in the school year following the year such expenditure is made.

3. Tuition shall be paid from either the teachers' or incidental funds.

4. Other provisions of law to the contrary notwithstanding, the school board of a school district that satisfies the criteria specified in subsection 5 of this section may transfer from the incidental fund to the capital projects fund [an amount not to exceed the greater of zero or] the sum of [.18 dollars per one hundred dollars equalized assessed valuation multiplied by the guaranteed tax base for the second preceding year multiplied by the number of resident and nonresident eligible pupils educated in the district for the second preceding year and];

(1) The amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year [and]; **plus**

(2) Any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools [and]: **plus**

(3) An amount not to exceed [.06 dollars per one hundred dollars equalized assessed valuation multiplied by] **the greater of:**

(a) The guaranteed tax base for the [second] preceding year [multiplied by the number of resident and nonresident eligible pupils educated in the district for the second preceding year less any amount transferred pursuant to subsection 7 of this section, provided that any amount transferred pursuant to this subsection shall only be transferred as necessary to satisfy obligations of the capital projects fund less any amount expended from the incidental fund for classroom instructional capital outlay pursuant to subsection 2 of this section. For the purposes of this subsection, the guaranteed tax base and a district's count of resident and nonresident eligible pupils educated in the district shall not be less than their respective values calculated from data for the 1992-93 school year]; **or**

(b) **Nine percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year; provided that transfer amounts authorized pursuant to subdivision (3) of this subsection may only be transferred by a resolution of the school board approved by a majority of the board members in office when the resolution is voted upon and identifying the specific capital projects to be funded by the transferred funds and an estimated expenditure date; and provided that if a district did not maintain compliance with the requirements of section 165.016 the preceding year without recourse to a waiver for that year or a base year adjustment received that year or a fund balance exclusion unless the fund balance exclusion had also been used the second preceding year, the transfer amount pursuant to subdivision (3) of this subsection may be transferred only to the extent required to meet current year obligations of the capital projects fund.**

5. In order to transfer funds pursuant to subsection 4 of this section, a school district shall:

(1) Meet the minimum criteria for state aid and for increases in state aid for the current year established pursuant to section 163.021, RSMo;

(2) Not incur a total debt, including short-term debt and bonded indebtedness in excess of [ten] **fifteen** percent of the guaranteed tax base for the preceding payment year multiplied by the number of resident and nonresident eligible pupils educated in the district in the preceding year;

(3) Set tax rates pursuant to section 164.011, RSMo;

(4) First apply any voluntary rollbacks or reductions to the total tax rate levied to the teachers' and incidental funds;

(5) In order to be eligible to transfer funds for paying lease purchase obligations:

(a) Incur such obligations, except for obligations for lease purchase for school buses, prior to January 1, 1997;

(b) Limit the term of such obligations to no more than twenty years;

(c) Limit annual installment payments on such obligations to an amount no greater than the amount of the payment for the first full year of the obligation, including all payments of principal and interest, except that the amount of the final payment shall be limited to an amount no greater than two times the amount of such first-year payment;

(d) Limit such payments to leasing nonathletic, classroom, instructional facilities as defined by the state board of education through rule; and

(e) Not offer instruction at a higher grade level than was offered by the district on July 12, 1994.

6. A school district shall be eligible to transfer funds pursuant to subsection 7 of this section if:

(1) Prior to August 28, 1993:

(a) The school district incurred an obligation for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo;

(b) The school district notified the appropriate local election official to place an issue before the voters of the district for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo; or

(c) An issue for funding payments under a lease purchase contract authorized under section 177.088, RSMo, was approved by the voters of the district; or

(2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating levy of a district above the 1993 tax rate resulting from passage of an issue described in paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate for the purposes of subsection 1 of section 164.011, RSMo.

7. Prior to transferring funds pursuant to subsection 4 of this section, a school district may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one of the conditions specified in subsection 6 of this section, but not to exceed its payments authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities, furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year plus any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools. A school district with a levy for school purposes no greater than the minimum levy specified in section 163.021, RSMo, and an obligation in the capital projects fund that satisfies at least one of the conditions specified in subsection 6 of this section, may transfer from the incidental fund to the capital projects fund the amount necessary to meet the obligation plus the transfers pursuant to subsection 4 of this section.

8. Beginning in the 1995-96 school year, the department of elementary and secondary education shall deduct from a school district's state aid calculated pursuant to section 163.031, RSMo, an amount equal to the amount of any transfer of funds from the incidental fund to the capital projects fund performed during the previous year in violation of this section; except that the state aid shall be deducted in equal amounts over the five school years following the school year of an unlawful transfer provided that:

(1) The district shall provide written notice to the state board of education, no later than June first of the first school year following the school year of the unlawful transfer, stating the district's intention to comply with the provisions of subdivisions (1) to (4) of this subsection and have state aid deducted for that unlawful transfer over a five-year period;

(2) On or before September first of the second school year following the school year of the unlawful transfer, the district shall approve an increase to the district's operating levy for school purposes to the greater of: two dollars and seventy-five cents per one hundred dollars assessed valuation or the levy which produces an increase in total state and local revenues, as determined by the department, in comparison to the first school year following the school year of the unlawful transfer which is equal to or greater than the amount of state aid to be deducted pursuant to this subsection each school year for such unlawful transfer, provided that increases required pursuant to this subdivision for subsequent unlawful transfers shall be made in comparison to the latter tax rate described in this subdivision;

(3) During each school year after the school year in which the operating levy is increased pursuant to subdivision (2) of this subsection and in which state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district shall maintain an operating levy for school purposes which produces total state and local revenues for the district which are no less than the total state and local revenues produced by the levy required pursuant to subdivision (2) of this subsection;

(4) During each school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection except for the 1998-99 school year, the district shall maintain compliance with the

requirements of section 165.016 without any recourse to waivers or base-year adjustments and without the option to demonstrate compliance based upon the district's fund balances; and

(5) If, in any school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district fails to comply with any requirement of subdivisions (1) to (4) of this subsection, the full, remaining amount of state aid to be deducted pursuant to this subsection shall be deducted from the district's state aid payments by the department during such school year.

9. On or before June 30, 1999, a school district may transfer to the capital projects fund from the balances of the teachers' and incidental funds any amount, but only to the extent that the amount transferred is equal to or less than the amount that the teachers' and incidental funds' unrestricted balances on June 30, 1995, exceeded eight percent of expenditures from the teachers' and incidental funds for the year ending June 30, 1995.

10. (1) Other provisions of law to the contrary notwithstanding, a school district which satisfies all conditions specified in subdivision (2) of this subsection may make the transfer allowed in subdivision (3) of this subsection.

(2) To make the transfer allowed under subdivision (3) of this subsection, a school district shall:

(a) Have a membership count for school year 1997-98 which is at least sixteen percent greater than the district's membership count for the 1991-92 school year; and

(b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994; and

(c) Be in compliance or have paid all penalties required pursuant to section 165.016 for the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school year certificated salary percentage; and

(d) After all transfers, have a remaining balance on June 30, 1998, in the combined teachers' and incidental funds which is no less than ten percent of the combined expenditures from those funds for the 1997-98 school year.

(3) A district which satisfies all of the criteria specified in paragraphs (a) to (d) of subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time combined transfer from the teachers' and incidental funds to the capital projects fund of an amount no greater than the sum of the following amounts:

(a) The product of the district's equalized assessed valuation for 1994 times the difference of the district's equalized operating levy for school purposes for 1994 minus the district's equalized operating levy for school purposes for 1993;

(b) The product of the district's equalized assessed valuation for 1995 times the difference of the district's equalized operating levy for school purposes for 1995 minus the district's equalized operating levy for school purposes for 1993;

(c) The product of the district's equalized assessed valuation for 1996 times the difference of the district's equalized operating levy for school purposes for 1996 minus the district's equalized operating levy for school purposes for 1993;

(d) The product of the district's equalized assessed valuation for 1997 times the difference of the district's equalized operating levy for school purposes for 1997 minus the district's equalized operating levy for school purposes for 1993; provided that the remaining balance in the incidental fund shall be no less than twelve percent of the total expenditures during that fiscal year from the incidental fund.

(4) A district which makes a transfer pursuant to subdivision (3) of this subsection shall be subject to compliance with the requirements of section 165.016 for fiscal years 1999, 2000 and 2001, without the option to request a waiver or an adjustment of the base school year certificated salary percentage.

(5) Other provisions of section 165.016 to the contrary notwithstanding, the transfer of an amount of funds from either the teachers' or incidental funds to the capital projects fund pursuant to subdivision (3) of this subsection shall not be considered an expenditure from the teachers' or

incidental fund for the purpose of determining compliance with the provisions of subsections 1 and 2 of section 165.016.

11. In addition to other transfers authorized under subsections 1 to 9 of this section, a district may transfer from the teachers' and incidental funds to the capital projects fund the amount necessary to repay costs of one or more guaranteed energy savings performance contracts to renovate buildings in the school district; provided that the contract is only for energy conservation measures, as defined in section 640.651, RSMo, and provided that the contract specifies that no payment or total of payments shall be required from the school district until at least an equal total amount of energy and energy-related operating savings and payments from the vendor pursuant to the contract have been realized by the school district.

12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section, any school district that has undergone at least a twenty percent increase in assessed valuation from the preceding year because of the construction of a power plant may make a one-time transfer on the basis of each such increase, to the capital projects fund from the balances of the teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of such transfer otherwise permitted pursuant to this section for the year in which such one-time transfer is made; provided that such transfer shall be made prior to the end of the second fiscal year following the fiscal year in which the increase in assessed valuation is effective. Such one-time transfer may be made without regard to whether the transferred funds are used for current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

Approved June 27, 2001

SB 544 [HCS SB 544]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Missouri Veterans Commission to grant an easement to Spectra Communications.

AN ACT to authorize the conveyance of an easement on property owned by Missouri Veterans Commission to Spectra Communications.

SECTION

1. Easement to be granted by Missouri Veterans Commission to Spectra Communications Group of Kansas City.
2. Consideration for easement, contents of instrument.
3. Attorney general to approve the form of the easement instrument.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. EASEMENT TO BE GRANTED BY MISSOURI VETERANS COMMISSION TO SPECTRA COMMUNICATIONS GROUP OF KANSAS CITY. — The Missouri Veterans Commission is hereby authorized to grant an easement by appropriate instrument, as the Missouri Veterans Commission determines appropriate, to Spectra Communications Group of Kansas City. The easement is more particularly described as follows:

AN EASEMENT OVER AND ACROSS THE GRANTORS LAND SAID PORTION BEING A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 57 NORTH, RANGE 30 WEST, CLINTON COUNTY, MISSOURI.

COMMENCING AT AN EXISTING IRON PIN MARKING THE NORTHWEST CORNER OF A TRACT OF LAND RECORDED IN BOOK 372 PAGE 709 CLINTON COUNTY RECORDER'S OFFICE; THENCE S89°42'25"E, ALONG THE SOUTH RIGHT-OF-WAY LINE OF EUCLID STREET 42.97 FEET; THENCE S00°17'35"W, 13.12 FEET TO AN IRON PIN SET FOR THE POINT OF BEGINNING; THENCE S89°01'00"E, 30.00 FEET TO AN IRON PIN SET; THENCE S00°20'00"W, 30.00 FEET TO AN IRON PIN SET; THENCE N89°01'00"W, 30.00 FEET TO AN IRON PIN SET; THENCE N00°20'00"E, 30.00 FEET TO THE POINT OF BEGINNING, CONTAINING 900 SQUARE FEET.

SECTION 2. CONSIDERATION FOR EASEMENT, CONTENTS OF INSTRUMENT. — Consideration for the easement shall be as negotiated by the parties. The instrument of easement shall reserve a reversionary interest in the Missouri Veterans Commission if Spectra Communications Group of Kansas City ceases to use the property described in section 1 of this act. In addition, the instrument of the easement shall contain such other restrictions, reversionary clauses, and conditions as are deemed necessary by the Missouri Veterans Commission to protect the interest of the state.

SECTION 3. ATTORNEY GENERAL TO APPROVE THE FORM OF THE EASEMENT INSTRUMENT. — The attorney general shall approve as to form the instrument of easement.

Approved July 10, 2001

SB 553 [SB 553]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes Northwest Missouri State University to lease property to the City of Maryville and the Missouri National Guard.

AN ACT to authorize the conveyance of property interest owned by Northwest Missouri State University to the Missouri National Guard and City of Maryville.

SECTION

1. Lease agreement between Northwest Missouri State University and the Missouri national guard and the city of Maryville — duration and purpose of lease, description of property — attorney general to approve form of lease.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. LEASE AGREEMENT BETWEEN NORTHWEST MISSOURI STATE UNIVERSITY AND THE MISSOURI NATIONAL GUARD AND THE CITY OF MARYVILLE — DURATION AND PURPOSE OF LEASE, DESCRIPTION OF PROPERTY — ATTORNEY GENERAL TO APPROVE FORM OF LEASE. — 1. The board of regents of Northwest Missouri State University is hereby authorized to enter into a lease agreement with the Missouri National Guard and the City of Maryville for a period of fifty years, with the right of renewal of such lease. The purpose of the lease shall be to allow the Missouri National Guard and the City of Maryville to construct a National Guard Armory and City Activities Center.

2. The property subject to the lease is legally described as follows:

Commencing at the Northwest Corner Section 18, Township 64 North, Range 35 West, Nodaway County, Missouri; thence along Range Line, South 01 degrees 46 minutes

53 seconds West 598.36 feet to the Point of Beginning; thence departing from said line, South 88 degrees 13 minutes 07 seconds East 810.60 feet; thence South 01 degrees 46 minutes 53 seconds West 824.75 feet; thence North 88 degrees 13 minutes 07 seconds West 810.60 feet to Range Line; thence along Range Line, North 01 degrees 46 minutes 53 seconds East 824.76 feet to the point of beginning, containing 15.35 acres, more or less. Also, a sixty (60) feet wide roadway easement being thirty (30) feet right and thirty (30) feet left of the below described centerline: Commencing at the Northwest Corner of Section 18, Township 64 North, Range 35 West, Nodaway County, Missouri; thence along Range Line, South 01 degrees 46 minutes 53 seconds West 598.36 feet to the Northwest Corner of the above described 15.35 acre tract; thence along the North Line of said Tract, South 88 degrees 13 minutes 07 seconds East 570.16 feet to the Point of Beginning; thence along the centerline of said roadway running northwesterly, 43.86 feet by arc distance along a 287.94 feet radius curve to the left, thence North 15 degrees 53 minutes 17 seconds West 81.47 feet, thence northeasterly 228.12 feet by arc distance along a 287.94 feet radius curve to the right; thence North 29 degrees 30 minutes 19 seconds East 62.70 feet; thence northeasterly 145.59 feet by arc distance along a 287.94 feet radius curve to the left; thence North 00 degrees 32 minutes 06 seconds East 61.46 feet to the intersection of the North Line of the Northwest Quarter of said Section 18, being the point of termination.

3. The lease shall contain terms and conditions acceptable to the board of regents of Northwest Missouri State University, the Missouri National Guard and the City of Maryville.

4. The attorney general shall approve as to form the instrument of agreement.

Approved July 10, 2001

SB 556 [SB 556]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Division of Liquor Control to issue microbrewing licenses to excursion gambling boats.

AN ACT to repeal section 313.840, RSMo 2000, relating to liquor licenses on boats and premises, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

313.840. Liquor licenses on boats and premises, commission to authorize — microbrewer's license issued, when — judicial review of all commission decisions, appeal.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 313.840, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 313.840, to read as follows:

313.840. LIQUOR LICENSES ON BOATS AND PREMISES, COMMISSION TO AUTHORIZE — MICROBREWER'S LICENSE ISSUED, WHEN — JUDICIAL REVIEW OF ALL COMMISSION DECISIONS, APPEAL. — 1. The conduct of or playing of any games on any licensed excursion gambling boat does not constitute gambling or gambling activities and the power of the division of liquor control to prohibit the licensing of any premises on which gambling or gambling

activities are conducted or played, or to prohibit the consumption or sale of beer or alcoholic beverage on any premises, shall not apply where the premises is duly licensed by the commission. Notwithstanding the provisions of chapter 311 or 312, RSMo, the commission shall be the sole liquor licensing authority for liquor service aboard any excursion gambling boat and any facility neighboring an excursion gambling boat which is owned and operated by an excursion gambling boat licensee. **The division of liquor control may issue a microbrewer's license pursuant to section 311.195 for manufacturing on the premises of such boat or neighboring facility.** The commission shall establish rules and regulations for the service of liquor on any premises licensed for the service of liquor by the commission, except that no rule or regulation adopted by the commission shall allow any person under the age of twenty-one to consume alcoholic beverages on any premises licensed for the service of liquor by the commission. All criminal provisions of chapter 311 or 312, RSMo, shall be applicable to liquor service aboard any premises licensed for the service of liquor by the commission.

2. Judicial review of all commission decisions relating to excursion gambling boat operations shall be directly to the state court of appeals for the western district of Missouri and shall not be subject to the provisions of chapter 621, RSMo.

Approved July 10, 2001

SB 568 [HCS SCS SB 568]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a property exchange between the Natural Resources Department and the City of Lexington.

AN ACT to authorize the exchange of property interest owned by the state and certain cities.

SECTION

1. Conveyance of property by Missouri department of natural resources to city of Lexington.
2. Consideration for conveyance.
3. Attorney general to approve form of the instruments of conveyance.
4. Conveyance of property by Missouri national guard to city of Springfield.
5. Consideration for conveyance.
6. Attorney general to approve form of the instruments of conveyance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF PROPERTY BY MISSOURI DEPARTMENT OF NATURAL RESOURCES TO CITY OF LEXINGTON. — The Missouri department of natural resources is hereby authorized to remise, release and forever quit claim the following described property to the City of Lexington, Missouri. The property to be conveyed is more particularly described as follows:

A tract of 16.3 acres of land in the central part of Section 28- 51-27. Tract lies South of and adjacent to the Missouri River and North of farm levee. More particularly described as: Beginning at an iron post at Point "A", said Point "A" is 1705.2 feet West and 2567.9 feet North of the Southeast corner of Section 28-51-27.

Thence, North 37°15' East 255.7 feet,

Thence, North 52°42' East 422.8 feet,

Thence, North 52°40' East 457.3 feet,

Thence, North 48°19' East 541.5 feet,
Thence, North 35°18' West 362.3 feet to a Point on the high bank of the Missouri River,
Thence, Southwest Following the South bank of the Missouri River approximately 2400 feet to a point.
Thence, South 39°15' East 180.0 feet to an iron rod at the North toe of farm levee, as now located.
Thence North 50°45' East 481.0 feet,
Thence North 33°53' East 199.1 feet to Point of Beginning.
Also, A 40 foot wide strip for roadway easement from the Missouri Pacific Railroad to the above tract of land described as:
Beginning at Point "A" as described above,
Thence, South 40°17' East 908.1 feet to the North Right of Way of Missouri Pacific Railroad,
Thence, North 40°12' East 74.95 Feet following The Railroad Right-of-Way,
Thence, North 52°20' West 153.3 feet,
Thence, North 40°17' West 746.3 feet to a point That is 40 feet Northeasterly of Point "A",
Thence, 40 feet southwesterly to Point "A", Point of Beginning.

SECTION 2. CONSIDERATION FOR CONVEYANCE. — In consideration for the conveyance in section 1 of this act, the City of Lexington is hereby authorized to remise, release and forever quit claim the following described property to the Missouri department of natural resources. The property to be conveyed is more particularly described as follows:

TRACT ONE:

Lots One (1), Two (2), Three (3), Four (4), Five (5) and Six (6) in Block lettered "G" in Anderson's Addition to the City of Lexington, Missouri as said lots appear upon the plat of said addition of record in Plat Book 1, page 6, in the office of the Recorder of Deeds for Lafayette County, Missouri.

TRACT TWO:

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), and Ten (10), in Block lettered "H" in Anderson's Addition to the City of Lexington, Missouri as said lots appear upon the plat of said addition of record in Plat Book 1, page 6, in the office of the Recorder of Deeds for Lafayette County, Missouri; Except that part thereof conveyed to the State of Missouri for highway purposes; Subject to sewer line easement granted to the City of Lexington, Missouri.

SECTION 3. ATTORNEY GENERAL TO APPROVE FORM OF THE INSTRUMENTS OF CONVEYANCE. — The attorney general shall approve as to form the instruments of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY BY MISSOURI NATIONAL GUARD TO CITY OF SPRINGFIELD. — The Missouri national guard is hereby authorized to remise, release and forever quit claim the following described property to the city of Springfield, Missouri: A portion of the Northeast Quarter of Section 18, Township 29 North, Range 21 West of the 5th Principal Meridian, City of Springfield and also being a portion of the tract of land as described in Quit Claim Deed recorded in Book 1091 at Page 632, Official Records of Greene County, Missouri and being more particularly described as follows:
Beginning at a point on the east right-of-way line of Fremont Street, said point being 524.70 feet south of the north line of the Northeast Quarter of said Section 18 and being the Southwest corner of Smith Park as described in Book 1091 at pages 71-73, Official

Records of Greene County, Missouri; thence South 88 39'20" East along the South line of Smith Park a distance of 405.00 feet; thence South 2 08'10" West a distance of 195.00 feet; thence North 88 39'20" West a distance of 405.00 feet to the east right-of-way line of Fremont Street; thence North 2 08'10" East along said right-of-way line a distance of 195.00 feet to the Point of Beginning.

The above described tract contains 1.81 Acres and is subject to any easements or restrictions of record.

SECTION 5. CONSIDERATION FOR CONVEYANCE. — In consideration for the conveyance in section 4 of this act, the city of Springfield is hereby authorized to remise, release and forever quit claim the following described property to the Missouri national guard:

A portion of the Northeast Quarter of Section 18, Township 29 North, Range 21 West of the 5th Principal Meridian, City of Springfield, Greene County, Missouri and described as follows: Commencing at a point on the east right-of-way line of Fremont Street, said point being 524.70 feet south of the north line of the Northeast Quarter of said Section 18 and being the Southwest corner of Smith Park as described in Book 1091 at pages 71-73, Official Records of Greene County, Missouri; thence South 88 39'20" East along the South line of Smith Park a distance of 405.00 feet to the Point of Beginning; thence North 2 08'10" East a distance of 117.30 feet; thence South 88 39'20" East a distance of 673.27 feet to the east line of Smith Park; thence South 2 08'10" West along said east line a distance of 117.30 feet to the southeast corner of Smith Park; thence North 88 39'20" West along the south line of Smith Park a distance of 673.27 feet to the Point of Beginning. The above described tract contains 1.81 Acres and is subject to any easements or restrictions of record.

SECTION 6. ATTORNEY GENERAL TO APPROVE FORM OF THE INSTRUMENTS OF CONVEYANCE. — The attorney general shall approve as to form the instrument or instruments of conveyance.

Approved July 10, 2001

SB 575 [SB 575]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises public school reporting requirements.

AN ACT to repeal section 160.522, RSMo 2000, and to enact in lieu thereof one new section relating to building-level school accountability report cards.

SECTION

- A. Enacting clause.
- 160.522. School accountability report card provided by school districts, distribution — standard form, contents — summary of accreditation, contents.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 160.522, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 160.522, to read as follows:

160.522. SCHOOL ACCOUNTABILITY REPORT CARD PROVIDED BY SCHOOL DISTRICTS, DISTRIBUTION — STANDARD FORM, CONTENTS — SUMMARY OF ACCREDITATION, CONTENTS. — 1. [The state board of education shall adopt a policy for the public reporting of information by school districts on an annual basis.] **School districts shall provide, at least annually, a school accountability report card for each school building to any household with a student enrolled in the district. Methods of distribution of the school accountability report card may include, but are not restricted to:**

- (1) Distribution at the time and place of student enrollment;**
- (2) Inclusion with student grade reports;**
- (3) Newspaper publication;**
- (4) Posting by the school district by Internet or other electronic means generally accessible to the public; or**
- (5) Making copies available upon request at all school or administrative buildings in any school district.**

The school district reports shall be distributed to all media outlets serving the district, and shall be made available, **upon request**, to all district patrons and to each member of the general assembly representing a legislative district which contains a portion of the school district.

2. The department of elementary and secondary education shall develop [multiple reporting models] **a standard form for the school accountability report card** which may be used by school districts [for their public reports]. The information reported shall include, but not be limited to, enrollment, rates of pupil attendance, high school dropout rate, the rates and durations of, and reasons for, suspensions of ten days or longer and expulsions of pupils, staffing ratios, including the district ratio of students to all teachers, to administrators, and to classroom teachers, the average years of experience of professional staff and advanced degrees earned, student achievement as determined through the assessment system developed pursuant to section 160.518, student scores on the SAT or ACT, **as appropriate**, along with the percentage of students taking each test, average teachers' and administrators' salaries compared to the state averages, average salaries of noncertificated personnel compared to state averages, average per pupil expenditures for the district as a whole and [for each building in the district which has pupils at the same grade level as another building in the district.] **by attendance center as reported to the department of elementary and secondary education**, voted and adjusted tax rates levied, assessed valuation, percent of the district operating budget received from state, federal, and local sources, [extracurricular activities offered and the costs associated with each activity,] the number of students eligible for free or reduced lunch, school calendar information, including [the number of] days [and hours for] **of** student attendance, parent-teacher conferences, and staff development or in-service training, data on course offerings and rates of participation in parent-teacher conferences, special education programs, early childhood special education programs, parents as teachers programs, vocational education programs, gifted or enrichment programs, and advanced placement programs, data on the number of students continuing their education in postsecondary programs and information about job placement for students who complete district vocational education programs, and the district's most recent accreditation by the state board of education, including measures for school improvement.

3. The public reporting shall permit the disclosure of data on a school-by-school basis, but the reporting shall not be personally identifiable to any student or education professional in the state.

4. The annual report made by the state board of education pursuant to section 161.092, RSMo, shall include a summary of school districts accredited, provisionally accredited, and unaccredited under the Missouri school improvement program, including an analysis of standards met and not met, and an analysis of state program assessment data collected pursuant to section 160.526, describing the kinds of tasks students can perform.

Approved June 14, 2001

SB 605 [SB 605]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies law regarding licensing of surplus lines insurance.

AN ACT to repeal section 384.043, RSMo 2000, relating to surplus lines insurance, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

384.043. Licensing requirements for surplus lines brokers, fee — bond — examination, exception — renewal, when, violation, effect.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 384.043, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 384.043, to read as follows:

384.043. LICENSING REQUIREMENTS FOR SURPLUS LINES BROKERS, FEE — BOND — EXAMINATION, EXCEPTION — RENEWAL, WHEN, VIOLATION, EFFECT. — 1. No agent or broker [licensed by the state] shall procure any contract of surplus lines insurance with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the director.

2. The director shall issue a surplus lines license to any qualified [resident] holder of a current **resident or nonresident** property and casualty [broker's] license but only when the [broker] **licensee** has:

- (1) Remitted the one hundred dollar initial fee to the director;
- (2) Submitted a completed license application on a form supplied by the director;
- (3) Passed a qualifying examination approved by the director, except that all holders of a license prior to July 1, 1987, shall be deemed to have passed such an examination; and
- (4) Filed with the director, and maintains during the term of the license, in force and unimpaired, a bond in favor of this state in the penal sum of [ten] **one hundred** thousand dollars **or in a sum equal to the tax liability for the previous tax year, whichever is smaller**, aggregate liability, with corporate sureties approved by the director. The bond shall be conditioned that the surplus lines licensee will conduct business in accordance with the provisions of sections 384.011 to 384.071 and will promptly remit the taxes as provided by law. No bond shall be terminated unless at least thirty days' prior written notice is given to the licensee and director. [If the director determines that a surplus lines licensee of a reciprocal sister state is competent and trustworthy, then he may, in his discretion, issue a nonresident surplus lines agent's license. A nonresident licensee shall be limited in his authority to servicing of business negotiated elsewhere and filing any appropriate taxes. A nonresident licensee shall not solicit business.]

3. Each surplus lines license shall be renewed annually on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 384.065; except that if the annual renewal fee for the license is not paid on or before the anniversary date the license terminates. The annual renewal fee is fifty dollars.

Approved July 12, 2001

SB 619 [HCS SCS SB 619]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows licensed ambulance service providers to provide services at state fair.

AN ACT to repeal section 190.109, RSMo 2000, and to enact in lieu thereof four new sections relating to the state fair, with an emergency clause.

SECTION

- A. Enacting clause.
- 190.109. Ground ambulance license.
- 190.143. Temporary emergency medical technician license granted, when — limitations — expiration.
 - 1. Easement granted by department of agriculture to city of Sedalia, description.
 - 2. Attorney general to approve the form of the instrument of easement.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 190.109, RSMo 2000, is repealed and four new sections enacted in lieu thereof, to be known as sections 190.109, 190.143, 1 and 2, to read as follows:

190.109. GROUND AMBULANCE LICENSE. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for a ground ambulance license.

2. Any person that owned and operated a licensed ambulance on December 31, 1997, shall receive an ambulance service license from the department, unless suspended, revoked or terminated, for that ambulance service area which was, on December 31, 1997, described and filed with the department as the primary service area for its licensed ambulances on August 28, 1998, provided that the person makes application and adheres to the rules and regulations promulgated by the department pursuant to sections 190.001 to 190.245.

3. The department shall issue a new ground ambulance service license to an ambulance service that is not currently licensed by the department, or is currently licensed by the department and is seeking to expand its ambulance service area, except as provided in subsection 4 of this section, to be valid for a period of five years, unless suspended, revoked or terminated, when the director finds that the applicant meets the requirements of ambulance service licensure established pursuant to sections 190.100 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. In order to be considered for a new ambulance service license, an ambulance service shall submit to the department a letter of endorsement from each ambulance district or fire protection district that is authorized to provide ambulance service, or from each municipality not within an ambulance district or fire protection district that is authorized to provide ambulance service, in which the ambulance service proposes to operate. If an ambulance service proposes to operate in unincorporated portions of a county not within an ambulance district or fire protection district that is authorized to provide ambulance service, in order to be considered for a new ambulance service license, the ambulance service shall submit to the department a letter of endorsement from the county. Any letter of endorsement shall verify that the political subdivision has conducted a public hearing regarding the endorsement and that the governing body of the political subdivision has adopted a resolution approving the endorsement.

4. A contract between a political subdivision and a licensed ambulance service for the provision of ambulance services for that political subdivision shall expand, without further action by the department, the ambulance service area of the licensed ambulance service to include the

jurisdictional boundaries of the political subdivision. The termination of the aforementioned contract shall result in a reduction of the licensed ambulance service's ambulance service area by removing the geographic area of the political subdivision from its ambulance service area, **except that licensed ambulance service providers may provide ambulance services as are needed at and around the state fair grounds for protection of attendees at the state fair.**

5. The department shall renew a ground ambulance service license if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245.

6. The department shall promulgate rules relating to the requirements for a ground ambulance service license including, but not limited to:

- (1) Vehicle design, specification, operation and maintenance standards;
- (2) Equipment requirements;
- (3) Staffing requirements;
- (4) Five-year license renewal;
- (5) Records and forms;
- (6) Medical control plans;
- (7) Medical director qualifications;
- (8) Standards for medical communications;
- (9) Memorandums of understanding with emergency medical response agencies that provide advanced life support;
- (10) Quality improvement committees; and
- (11) Response time, patient care and transportation standards.

7. Application for a ground ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the ground ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

190.143. TEMPORARY EMERGENCY MEDICAL TECHNICIAN LICENSE GRANTED, WHEN — LIMITATIONS — EXPIRATION. — 1. Notwithstanding any other provisions of law, the department may grant a ninety-day temporary emergency medical technician license to all levels of emergency medical technicians who meet the following:

- (1) Can demonstrate that they have, or will have employment requiring an emergency medical technician license;**
- (2) Have been licensed as an emergency medical technician in Missouri and fingerprints need to be submitted to the Federal Bureau of Investigation to verify the existence or absence of a criminal history, or they are currently licensed and the license will expire before a verification can be completed of the existence or absence of a criminal history;**
- (3) Have submitted a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245;**
- (4) Have not been disciplined pursuant to sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245;**
- (5) Meet all the requirements of rules promulgated pursuant to sections 190.001 to 190.245.**

2. A temporary emergency medical technician license shall only authorize the license to practice while under the immediate supervision of a licensed emergency medical technician-basic, emergency medical technician-paramedic, registered nurse or physician who is currently licensed, without restrictions, to practice in Missouri.

3. A temporary emergency medical technician license shall automatically expire either ninety days from the date of issuance or upon the issuance of a five-year emergency medical technician license.

SECTION 1. EASEMENT GRANTED BY DEPARTMENT OF AGRICULTURE TO CITY OF SEDALIA, DESCRIPTION. — The Missouri department of agriculture is hereby authorized to grant an easement by appropriate instrument, the following described property to the city of Sedalia, Missouri. The property is more particularly described as follows:
A 60.0 FOOT RIGHT-OF-WAY FOR STREET PURPOSES LYING 30.0 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: BEGINNING AT A POINT 105.16 FEET NORTH OF AND 12.42 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 8, IN TOWNSHIP 45 NORTH, OF RANGE 21 WEST OF THE FIFTH PRINCIPAL MERIDIAN, SEDALIA, PETTIS COUNTY, MISSOURI, SAID POINT BEING IN THE CENTERLINE OF CLARENDON ROAD; THENCE SOUTH 00°05'10" EAST, ALONG SAID CENTERLINE AND THE PROLONGATION OF SAID CENTERLINE, 762.86 FEET; THENCE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 302.0 FEET AN ARC DISTANCE OF 552.53 FEET; THENCE NORTH 75°05'20" EAST, 122.27 FEET; THENCE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 119.0 FEET AN ARC DISTANCE OF 112.85 FEET TO A POINT ON THE NORTHERLY LINE OF KATY TRAIL STATE PARK, 43.87 FEET WESTERLY AS MEASURED ALONG SAID NORTHERLY LINE FROM THE CENTERLINE OF SAID CLARENDON ROAD IF EXTENDED NORTH AND THE TERMINATION OF SAID RIGHT-OF-WAY.

SECTION 2. ATTORNEY GENERAL TO APPROVE THE FORM OF THE INSTRUMENT OF EASEMENT. — The attorney general shall approve as to form the instrument of easement.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure the safety of attendees at the state fair the repeal and reenactment of section 190.109 and the enactment of sections 1 and 2 of this act, is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 190.109 and the enactment of sections 1 and 2 of this act shall be in full force and effect upon its passage and approval.

Approved May 23, 2001

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HB 185 [SS SCS HB 185]

AN ACT to repeal sections 64.170, 64.180 and 64.342, RSMo 2000, relating to building codes in certain counties, and to enact in lieu thereof six new sections relating to the same subject.

HB 725 [HB 725]

AN ACT to repeal section 165.011, RSMo 2000, relating to transfers of funds in certain school districts, and to enact in lieu thereof one new section relating to the same subject.

HB 909 [HB 909]

AN ACT to authorize the exchange of property interest owned by the department of natural resources and the City of Lexington.

SB 207 [SB 207]

AN ACT to repeal section 334.128, RSMo 2000, relating to the state board of registration for the healing arts, and to enact in lieu thereof one new section relating to the same subject.

SB 270 [SCS SB 270]

AN ACT to amend chapter 536, RSMo, by adding thereto one new section relating to administrative law judges, with an effective date.

SB 341 [SCS SB 341]

AN ACT to repeal sections 57.010, 590.100, 590.130, 590.170 and 590.175, RSMo 2000, relating to law enforcement agencies, and to enact in lieu thereof three new sections relating to the same subject.

SB 387 [SCS SB 387]

AN ACT to amend chapter 393, RSMo, by adding thereto two new sections relating to allowing certain electrical corporations to recover certain costs, with an emergency clause.

SB 606 [SB 606]

AN ACT to repeal sections 72.424, 141.265, 142.027, 208.453, 208.455, 208.457, 208.459, 208.461, 208.463, 208.465, 208.467, 208.469, 208.471, 208.473, 208.475, 208.479, 208.480, 313.353, 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 417.018, 620.1310, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215 and 640.218, RSMo 2000, and section 217.440 as enacted by senate committee substitute for senate bill no. 430 of the eighty-ninth general assembly, first regular session, for the purpose of repealing expired provisions of law and sections made obsolete by expired provisions of law, with an effective date.

AMENDMENT TO CONSTITUTION OF MISSOURI,

ADOPTED NOVEMBER 7, 2000

[SENATE JOINT RESOLUTION 25]

Amendment No. 1. — (Proposed by the Ninetieth General Assembly, First Regular Session) Shall a budget reserve fund be created in the state treasury to provide an operating reserve for use by the governor with 2/3 approval by the legislature when there is a budget emergency due to disaster or revenues falling below revenue estimates?

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 27(a) of article IV of the Constitution of Missouri relating to certain funds in the state treasury, and adopting one new section in lieu thereof relating to the same subject.

SECTION

- A. Amending clause.
27(a). Budget reserve fund established — investment by the treasurer — excess transfer to general revenue or any other state fund, when, amount — interest credited to fund — moneys in fund expended, when, maximum.

Be it enacted by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2000, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article IV of the Constitution of the state of Missouri:

SECTION A. AMENDING CLAUSE. — Section 27(a), article IV, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 27(a), to read as follows:

SECTION 27(A). BUDGET RESERVE FUND ESTABLISHED — INVESTMENT BY THE TREASURER — EXCESS TRANSFER TO GENERAL REVENUE OR ANY OTHER STATE FUND, WHEN, AMOUNT — INTEREST CREDITED TO FUND — MONEYS IN FUND EXPENDED, WHEN, MAXIMUM. — 1. There is hereby established within the state treasury a fund to be known as the "[Cash Operating] Budget Reserve Fund". [The following moneys shall be transferred or credited to the cash operating reserve fund: (1) Such amounts as may be appropriated by the general assembly or otherwise credited to the cash operating reserve fund; (2) Funds transferred into the cash operating reserve fund by the state treasurer as prescribed by this section; and (3) Any balance in a cash operating reserve fund which has been established by state statutes.

2. Beginning on the fifteenth of July next following the effective date of this section, and on or prior to the fifteenth day of each month thereafter, the state treasurer, shall transfer three-fourths of one percent of the total amount collected in the general revenue fund for the preceding month into the cash operating reserve fund. Such transfers shall continue until the cash operating reserve fund contains an amount equal to five percent of the general revenue fund collections for the preceding fiscal year. At such time the transfers from the general revenue

fund shall cease.] **The balances in the cash operating reserve fund and the budget stabilization fund shall be transferred to the budget reserve fund.**

[3.] **2.** The commissioner of administration may, throughout any fiscal year, transfer amounts from the [cash operating] **budget** reserve fund to the general revenue fund **or any other state fund** without other legislative action if he determines that such amounts are necessary for the cash requirements of this state. **Such transfers shall be deemed "cash operating transfers".**

[4.] **3.** The commissioner of administration shall transfer from the general revenue fund **or other recipient fund** to the [cash operating] **budget** reserve fund an amount equal to the [amount transferred from the cash operating reserve] **cash operating transfer received by such** fund pursuant to subsection [3] **2** of this section, [but, in any case, the transfer must be made] **together with the interest that would have been earned on such amount**, prior to May sixteenth of [any] **the fiscal year in which the transfer was made**. No **cash operating** transfers out of the [cash operating] **budget** reserve fund may be made after May fifteenth of any fiscal year.

[5.] The balance in the cash operating reserve fund on May sixteenth of each fiscal year shall not be less than the sum of the opening balance of the cash operating reserve fund for that fiscal year plus accrued interest earnings and all amounts appropriated or transferred pursuant to this section into the cash operating reserve fund for the fiscal year.

[6.] **4.** Funds in the [cash operating] **budget** reserve fund [which are not needed for current cash requirements of this state] shall be invested by the treasurer in the same manner as other state funds are invested. **Interest earned on such investments shall be credited to the budget reserve fund. Subject to the provisions of subsection 7 of this section, the unexpended balance in the budget reserve fund at the close of any fiscal year shall remain in the fund.**

5. In any fiscal year in which the governor reduces the expenditures of the state or any of its agencies below their appropriations in accordance with section 27 of this article, or in which there is a budget need due to a disaster, as proclaimed by the governor to be an emergency, the general assembly, upon a request by the governor for an emergency appropriation and by a two-thirds vote of the members elected to each house, may appropriate funds from the budget reserve fund to fulfill the expenditures authorized by any of the existing appropriations which were affected by the governor's decision to reduce expenditures pursuant to section 27 of this article or to meet budget needs due to the disaster. Such expenditures shall be deemed to be for "budget stabilization purposes". The maximum amount which may be appropriated at any one time for such budget stabilization purposes shall be one-half of the sum of the balance in the fund and any amounts appropriated or otherwise owed to the fund, less all amounts owed to the fund for budget stabilization purposes but not yet appropriated for repayment to the fund.

6. One-third of the amount transferred or expended from the budget reserve fund for budget stabilization purposes during any fiscal year, together with interest that would otherwise have been earned on such amount, shall stand appropriated to the budget reserve fund during each of the next three fiscal years, and such amount, and any additional amounts which may be appropriated for that purpose, shall be transferred from the fund which received such transfer to the budget reserve fund by the fifteenth day of the fiscal year for each of the next three fiscal years or until the full amount, plus interest, has been returned to the budget reserve fund. The maximum amount which may be outstanding at any one time and subject to repayment to the budget reserve fund for budget stabilization purposes shall be one-half of the sum of the balance in the fund and all outstanding amounts appropriated or otherwise owed to the fund.

7. If the balance in the [cash operating] **budget** reserve fund at the close of any fiscal year exceeds [five] **seven and one-half** percent of the **net** general revenue [fund] collections for the previous fiscal year, the commissioner of administration shall transfer that excess amount to the

general revenue fund[.] unless such excess balance is as a result of direct appropriations made by the general assembly for the purpose of increasing the balance of the fund; provided, however, that if the balance in the fund at the close of any fiscal year exceeds ten percent of the net general revenue collections for the previous fiscal year, the commissioner of administration shall transfer the excess amount to the general revenue fund notwithstanding any specific appropriations made to the fund. For purposes of this section, "net general revenue collections" means all revenue deposited into the general revenue fund less refunds and revenues originally deposited into the general revenue fund but designated by law for a specific distribution or transfer to another state fund.

8. If the **sum of the** ending balance of the [cash operating] **budget** reserve fund in any fiscal year [beginning on or after July 1, 1990,] **and any amounts owed to the fund pursuant to subsection 6 of this section** is less than [five] **seven and one-half** percent of the net general revenue collections for the same year, the difference shall stand appropriated and shall be transferred from the general revenue fund to the [cash operating] **budget** reserve fund by the fifteenth day of the succeeding fiscal year.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adopted November 7, 2000. (For — 1,223,284; Against — 843,303)
Effective December 7, 2000.

AMENDMENTS TO CONSTITUTION OF MISSOURI,**DEFEATED NOVEMBER 7, 2000****SJR 35 [CCS HCS SS SS#3 SJR 35]**

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 3 of article XIII of the Constitution of Missouri relating to the Missouri citizens' commission on the compensation for elected officials, and adopting one new section in lieu thereof relating to the same subject.

Defeated November 7, 2000. (For — 780,192; Against —1,217,189)

SJR 50 [SJR 50]

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 39(a) of article III of the Constitution of Missouri relating to bingo, and adopting one new section in lieu thereof relating to the same subject.

Defeated November 7, 2000. (For — 672,370; Against —1,395,873)

PROPOSITION A

INITIATIVE PETITION regarding Outdoor Advertising.

Defeated November 7, 2000. (For — 1,075,333; Against —1,122,119)

PROPOSITION B

INITIATIVE PETITION regarding Campaign Finance.

Defeated November 7, 2000. (For — 748,949; Against —1,366,559)

PROPOSED AMENDMENT TO CONSTITUTION OF MISSOURI**HOUSE JOINT RESOLUTION 11 [HS HJR 11]**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Proposes a constitutional amendment to allow the City of St. Louis to revise or amend charter to provide for county officers.

JOINT RESOLUTION submitting to the qualified voters of Missouri, an amendment repealing sections 31, 32(a) and 32(b) of article VI of the Constitution of Missouri relating to the city of St. Louis, and adopting four new sections in lieu thereof relating to the same subject.

SECTION

- A. Enacting clause.
- 31. Recognition of City of St. Louis as now existing.
- 32(a). Amendment of charter of St. Louis.
- 32(b). Revision of charter of St. Louis.
- 32(b). Revision of charter of St. Louis.
- 32(c). Effect of revision on retirement.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2002, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article VI of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Sections 31, 32(a) and 32(b), article VI, Constitution of Missouri, are repealed and four new sections adopted in lieu thereof, to be known as sections 31, 32(a), 32(b) and 32(c), to read as follows:

SECTION 31. RECOGNITION OF CITY OF ST. LOUIS AS NOW EXISTING. — The city of St. Louis, as now existing, is recognized both as a city and as a county unless otherwise changed in accordance with the provisions of this constitution. As a city it shall continue for city purposes with its present charter, subject to changes and amendments provided by the constitution or by law, and with the powers, organization, rights and privileges permitted by this constitution or by law. **As a county, it shall not be required to adopt a county charter but may, except for the office of circuit attorney, amend or revise its present charter to provide for the number, kinds, manner of selection, terms of office and salaries of its county officers, and for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state.**

SECTION 32(a). AMENDMENT OF CHARTER OF ST. LOUIS. — The charter of the city of St. Louis now existing, or as hereafter amended or revised, may be amended **or revised for city or county purposes** from time to time by proposals therefor submitted by the lawmaking body of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals, and accepted by three-fifths of the qualified electors voting for or against each of said amendments **or revisions** so submitted. [Any such amendments so accepted shall take effect immediately, except as therein otherwise provided.]

[SECTION 32(b). REVISION OF CHARTER OF ST. LOUIS. — The lawmaking body of the city may order an election by the qualified voters of the city of a board of thirteen freeholders of such city to prepare a new or revised charter of the city, which shall be in harmony with the constitution and laws of the state, and shall provide, among other things for a chief executive and a house or houses of legislation to be elected by general ticket or by wards. Such new or revised charter shall be submitted to the qualified voters of the city at an election to be held not less than twenty nor more than thirty days after the order therefor, and if a majority of the qualified voters voting at the election ratify the new or revised charter, then said charter shall become the organic law of the city and shall take effect, except as otherwise therein provided, sixty days thereafter, and supersede the old charter of the city and amendments thereto.]

SECTION 32(b). REVISION OF CHARTER OF ST. LOUIS. — In the event of any amendment or revision of the charter of the city of St. Louis which shall reorganize any county office and/or transfer any or all of the duties, powers and functions of any county officer who is then in office, the officer shall serve out the remainder of his or her term, and the amendment or revision of the charter of the city of St. Louis shall take effect, as to such office, upon the expiration of the term of such office holder. In the event of any amendment or revision of the charter of the city of St. Louis which shall reorganize any county office and/or transfer any or all of the duties, powers and functions of any county officer, all of the staff of such office shall be afforded the opportunity to become employees of the city of St. Louis with their individual seniority and compensation unaffected and on such other comparable terms and conditions as may be fair and equitable.

SECTION 32(c). EFFECT OF REVISION ON RETIREMENT. — An amendment or revision adopted pursuant to section 32(a) of this article shall not deprive any person of any right or privilege to retire and to retirement benefits, if any, to which he or she was entitled immediately prior to the effective date of that amendment or revision.

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1

BE IT RESOLVED, by the House of Representatives of the Ninety-first General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Thursday, January 4, 2001, to receive a message from His Excellency, the Honorable Roger Wilson, Governor of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-first General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 2

BE IT RESOLVED, by the House of Representatives of the Ninety-first General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, January 10, 2001, to receive a message from His Honor William Ray Price, Jr., the Chief Justice of the Supreme Court of the State of Missouri; and

BE IT RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform His Honor that the House of Representatives and the Senate of the Ninety-first General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that His Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 3

BE IT RESOLVED, by the House of Representatives of the Ninety-first General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Tuesday, January 30, 2001, to receive a message from His Excellency, the Honorable Bob Holden, Governor of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-first General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

**SENATE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 5**

WHEREAS, telecommunications services and energy services and sources are vital to the economic vitality and well-being of the state of Missouri; and

WHEREAS, attempts across the nation to deregulate telecommunications services and energy services and sources have met with both success and failure in the effort to create competitive markets and make available new services and customer choices; and

WHEREAS, the state and political subdivisions have imposed taxes, fees and other assessments on various telecommunications and energy services which vary widely based on locality and, within a locality, may vary widely due to increasingly related and competitive services, such as telephone and cable television; and

WHEREAS, the current nationwide effort to establish competition in the production, distribution and sale of energy, including electricity, natural gas and other energy sources has potential benefits and adverse effects on energy producers, distributors, retailers, customers and the citizens of this state; and

WHEREAS, ensuring adequate and affordable telecommunications services and energy services and sources necessitate a fair and equitable tax structure across different telecommunications and energy services and across different regions of the state; and

WHEREAS, the issue of whether governmental entities should expend public resources to compete with private telecommunications and energy entities should be explored; and

WHEREAS, recent increases in the cost of natural gas has affected home heating costs, electricity costs and energy costs for businesses and created a greater need for efficient use of energy resources; and

WHEREAS, Missouri produces little of the energy resources it consumes, resulting in a considerable export of wealth from the state to other parts of the nation and the rest of the world;

WHEREAS, a Joint Interim Committee on Telecommunications and Energy has studied several of the above-mentioned issues during the tenure of the Ninetieth General Assembly and recommends that a similar study committee be established to continue the study during the tenure of the Ninety-first General Assembly:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, that a Joint Legislative Committee on Telecommunications and Energy be created to be

composed of seven members of the Senate, to be appointed by the President Pro Tem of the Senate, and seven members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, and that said committee be authorized to function throughout the Ninety-first General Assembly; and

BE IT FURTHER RESOLVED that said committee continue and expand the in-depth studies conducted by the prior Joint Interim Committee on Telecommunications and Energy and make appropriate recommendations concerning financial, legal, social, taxation, environmental, technological and economic issues of telecommunications, cable television, all Internet services, including asymmetrical digital subscriber lines (ADSL) and service via cable lines, and energy services taxation, competition between governmental entities and private telecommunication entities, and any other issues the committee deems relevant; and

BE IT FURTHER RESOLVED that said committee continue and expand the in-depth studies conducted by prior Joint Interim Committees on Telecommunications and Energy and make appropriate recommendations concerning financial, legal, social, taxation, environmental, technological and economic issues of deregulation and increasing competition in energy production, distribution and sale, including consideration of the effects on residential customers, small and large business customers, utility shareholders and other stakeholders and any other issues the committee deems relevant with such studies to specifically include an analysis of (i) the existing and projected demands in this state for electric power and energy over the next ten years, and the basis for determining the projected demand; (ii) the adequacy and reliability of available and planned electric generation to serve the needs of customers in this state; (iii) permitting retail customers having load at a single premises in excess of 1 or 2 MW to utilize alternative sources of supply without adversely affecting state and municipal tax revenues; (iv) the adequacy and availability of available and planned transmission facilities used to transfer electricity into and within the state; and (v) incentives that would encourage the ongoing investment needed to ensure adequate generation and transmission capacity within the state; and

BE IT FURTHER RESOLVED that said committee study and make appropriate recommendations concerning financial, legal, social, taxation, environmental, technological and economic issues of energy costs, energy demand management options, decentralization of energy sources, production of alternative energy, energy efficiency and any other issues the committee deems relevant;

BE IT FURTHER RESOLVED that said committee prepare an interim report, which must at a minimum include a detailed summary of the committee's analysis of the adequacy and reliability of available and planned electric generation and transmission capacity to serve the projected needs of customers in this state currently and over the next ten years and incentives for ongoing investment and allowing retail customers having load at a single premises in excess of 1 or 2 MW to utilize alternative sources of supply without adversely affecting state and municipal tax revenues, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the Second Regular Session of the Ninety-first General Assembly but in any event no later than December 1, 2001, and a final report, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the First Regular Session of the Ninety-second General Assembly; and

BE IT FURTHER RESOLVED that said committee may solicit any input and information necessary to fulfill its obligations from the Missouri Public Service Commission, the Department of Economic Development, the Division of Energy within the Department of Natural Resources, the Office of Public Counsel, political subdivisions of this state, telecommunications and energy

service providers, energy utilities and representatives of all telecommunications and energy customer groups; and

BE IT FURTHER RESOLVED that House Research, the Committee on Legislative Research, and Senate Research shall provide such legal, research, clerical, technical and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the committee, its members and any staff personnel assigned to the committee incurred in attending meetings of the committee or any subcommittee thereof shall be paid from the Joint Contingent Fund.

**HOUSE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 6**

WHEREAS, the United States Fish and Wildlife Service has recommended that the United States Army Corps of Engineers implement the so-called "spring rise-split season" plan for operation of the Missouri River mainstem reservoir system. This plan would result in an increase in the flow of the Missouri River in the spring and a reduction of the flow in the summer of each year, purportedly to improve habitat for the threatened and endangered pallid sturgeon, least tern and piping plover; and

WHEREAS, additional changes under consideration by the United States Army Corps of Engineers to the Missouri River Master Manual would result in the storage of more water in the upstream reservoirs while decreasing the amount of water available downstream for designated uses. These changes would shorten the navigation season on the Missouri River by twenty-seven days in November and put at risk Mississippi River navigation as well; and

WHEREAS, analysis of the proposed changes by the state of Missouri and the United States Army Corps of Engineers has indicated these changes will fail to improve and will potentially diminish habitat for the species in question, will increase the risk of flooding along the Missouri River, and will result in a decrease in river levels in early summer and fall which will impact navigation and other designated uses on the Missouri and Mississippi Rivers; and

WHEREAS, habitat restoration along the lower Mississippi River has demonstrated great success in aiding the recovery of these species and a similar approach should be given the opportunity to succeed on the Missouri River; and

WHEREAS, these plans have the potential for severe impact on any industry which uses the Missouri River or Mississippi River to transport products and the potential to increase risk of flooding in river communities and on farm land in the Missouri and lower Mississippi River basins; and

WHEREAS, these proposals do not adequately address the concerns and needs of states in the lower Missouri and Mississippi River basin, and will not realize the purported benefit of increasing habitat for endangered species; and

WHEREAS, the Missouri departments of natural resources, conservation and transportation have opposed these plans and have informed the Fish and Wildlife Service and the United States Army Corps of Engineers of their concerns regarding the potential impact on the state's river communities, lands, businesses and wildlife habitat:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri House of Representatives, Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby urge the Governor to protest against any proposals that would so negatively impact beneficial uses of the lower Missouri and Mississippi Rivers and would not significantly improve conditions for the species of concern; and

BE IT FURTHER RESOLVED that the members of the General Assembly urge the Department of Natural Resources, the Department of Conservation and the Department of Transportation to continue to insist that any plan involving the operations of the Missouri River improve the Missouri River for all beneficial uses and be sure any river management changes are based on sound science; and

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be instructed to prepare properly inscribed copies of this resolution for the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the Governor of Missouri, the Director of the Department of Natural Resources, the Director of the Department of Conservation and the Director of the Department of Transportation.

HOUSE CONCURRENT RESOLUTION NO. 10

WHEREAS, the original passage of the federal Individuals with Disabilities Education Act (IDEA) in 1975 established a program of free appropriate public education to better enable students with disabilities to achieve their greatest potential; and

WHEREAS, IDEA also represented an advance in civil rights for disabled children through equal protection; and

WHEREAS, Missouri has demonstrated a strong commitment to serving our children with disabilities through provision of special education and related services to over 127,000 students (14.18 percent of public school enrollment); and

WHEREAS, the original intent of the 94th Congress was to fund IDEA at 40% of its cost, but funding has never exceeded 13%; and

WHEREAS, federal law requires school districts to meet federal standards, but Congress has not provided the promised funding necessary to achieve those standards; and

WHEREAS, Missouri and several other states have legal prohibitions on passing unfunded mandates to the local level and therefore must either make up the shortfall or ask local districts to do so and thereby risk litigation; and

WHEREAS, local districts must then cover the mandated expenses of special education and reduce funding for teachers, textbooks and supplies, building maintenance and repair, as well as meet the counterproductive reporting burden which severely reduces teacher availability:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby urge that before the 107th Congress considers any other education initiatives, that IDEA receive prompt and full funding, and the reporting requirements of IDEA be significantly reduced; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives and every member of the Missouri Congressional delegation.

HOUSE CONCURRENT RESOLUTION NO. 12

WHEREAS, the recent dramatic increase in utility rates for utility companies providing heating fuels has had a devastating financial affect on many middle and low income Missourians who cannot afford to pay utility bills which have more than doubled in recent months; and

WHEREAS, many Missourians on fixed and limited incomes may be forced to eliminate other essential purchases, such as food and medicines, from their limited budgets in order to pay the exorbitant utility bills; and

WHEREAS, due to the extraordinary circumstances in which Missourians find themselves, members of Congress should consider taking extraordinary steps to protect the interests of all of the people of the United States:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby request that the United States Congress consider establishing a strong remedial federal energy policy that delegates emergency powers to individual states; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives and each member of the Missouri Congressional delegation.

HOUSE CONCURRENT RESOLUTION NO. 14

WHEREAS, the Railroad Retirement and Survivors Improvement Act of 2000 was approved in a bipartisan effort by 391 members of the United States House of Representatives of the 106th Congress, including the entire Missouri delegation to the United States House of Representatives; and

WHEREAS, more than 83 United States Senators, including both Missouri Senator Kit Bond and then Missouri Senator John Ashcroft, signed letters of support for this legislation in 2000; and

WHEREAS, the bill now before the 107th Congress modernizes the Railroad Retirement System for its 690,000 beneficiaries nationwide, including over 23,100 in Missouri; and

WHEREAS, railroad management, labor and retiree organizations have agreed to support this legislation; and

WHEREAS, this legislation provides tax relief to freight railroads, Amtrak and commuter lines; and

WHEREAS, this legislation provides benefit improvements for surviving spouses of rail workers, who currently suffer deep cuts in income when the rail retiree dies; and

WHEREAS, no outside contributions from taxpayers are needed to implement the changes called for in this legislation; and

WHEREAS, all changes will be paid for from within the railroad industry, including a full share of active employees:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby urge the United States Congress to support the Railroad Retirement and Survivors Improvement Act introduced in the 107th Congress; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each member of the Missouri Congressional delegation.

HOUSE CONCURRENT RESOLUTION NO. 22

WHEREAS, in 1955, the Missouri Brucellosis Control and Eradication Law, sections 267.470 to 267.550, RSMo, was enacted by the Missouri General Assembly to suppress, control and eradicate bovine brucellosis in this state; and

WHEREAS, as part of the state's attempt to suppress, control and eradicate bovine brucellosis in this state, a certification process was established which included the herd designation of a "certified brucellosis free herd"; and

WHEREAS, more than forty-five years after the passage of the Missouri Brucellosis Control and Eradication Law, not every herd of cattle in the state of Missouri has attained the designation of a certified brucellosis free herd; and

WHEREAS, all cattle eight months of age or over must pass a negative test for brucellosis within thirty days of the transportation of such cattle within or outside the state; and

WHEREAS, the economic progress of the cattle industry in this state depends on the ability of cattle producers to buy, sell and exchange cattle both intrastate and interstate; and

WHEREAS, the department of agriculture should be aggressive in the use and utilization of the resources available to the department to reach a brucellosis free status for the entire state, without requiring new vaccinations:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate

concurring therein, hereby direct the department of agriculture to be more aggressive in its attempts to suppress, control and eradicate bovine brucellosis in this state and reach a statewide brucellosis free status; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the director of the department of agriculture.

HOUSE CONCURRENT RESOLUTION NO. 23

WHEREAS, the Windfall Elimination Provision or WEP was added to the federal Social Security Act in 1983 to prevent unfairly inflated benefits for persons who held highly compensated government positions that were not covered by Social Security and who also had brief, relatively low-paying Social Security covered employment; and

WHEREAS, the WEP has had the unintended consequence of undermining the retirement plans of individuals who have been teachers and who often continue to hold Social Security covered employment during summers and holidays; and

WHEREAS, Missouri and other states are anticipating an increased rate of teacher retirement and difficulty attracting young adults into the education field; and

WHEREAS, the WEP also serves to discourage mid-life career changes from Social Security covered employment to employment covered by public pensions such as teaching; and

WHEREAS, the WEP often works in conjunction with another income-reducing feature, the government pension offset (GPO) that bears disproportionately on women, to doubly affect the teacher corps which is still primarily made up of women; and

WHEREAS, the formula of the WEP assumes retirees have had a higher-paying position over the entire course of their careers, an assumption which is contrary to the fact for teachers; and

WHEREAS, many teachers need a second income and therefore work in Social Security covered positions, thereby activating the WEP; and

WHEREAS, the continuation of the WEP and GPO impacts presently retired teachers, teachers near retirement, and young adults entering the education field, all who are essential parts of our national education corps:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby urge the 107th Congress to:

(1) Either simply rescind the Windfall Elimination Provision or amend it so that it does not bear disproportionately upon teachers and others who have modest salaries earned in non-Social Security-covered service; and

(2) Amend the government pension offset so that it will not bear disproportionately upon teachers and others whose government pensions are based on modest salaries; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for each member of the Missouri congressional delegation.

**HOUSE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 25**

Relating to authorization for the issuance of bonds for university arena projects.

WHEREAS, Section 21.527, RSMo, requires that certain projects to be funded by revenue bonds shall be approved by the General Assembly; and

WHEREAS, the General Assembly is desirous of approving a project for a sports arena and related facilities to be owned by the University of Missouri-Columbia campus and to be funded in part by such revenue bonds:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby approve the following:

1. A sports arena project and related facilities for the University of Missouri-Columbia campus; and
2. A total estimated project cost, including furnishings and equipment, of seventy-five million dollars; and
3. The Health and Educational Facilities Authority of the state of Missouri may issue bonds not to exceed thirty-five million dollars to fund the state's share of such sports arena project and related facilities; and
4. The remainder of the project cost to be funded by contributions and other funds to be provided by the University of Missouri; and
5. The sports arena project and related facilities shall comply with section 8.250, RSMo, and sections 290.210 to 290.340, RSMo, should the General Assembly appropriate future funding in an amount sufficient to pay the state's share of the project; and

BE IT FURTHER RESOLVED that pursuant to Section 28 of Article IV of the Missouri Constitution, this resolution shall not bind future General Assemblies to make any appropriations for this purpose although it is the present intent of the General Assembly, during each fiscal year of the state during the term of such revenue bonds, to appropriate funds sufficient to pay the debt service on such revenue bonds; and

BE IT FURTHER RESOLVED that the intent of the General Assembly is that no funds shall be appropriated to pay the state's share on such revenue bonds until fiscal year 2005, unless further legislative action authorizes such payment prior to fiscal year 2005; and

BE IT FURTHER RESOLVED that the members of the Missouri General Assembly authorize and direct the Office of Administration and such other state departments, offices and agencies as the Office of Administration may deem necessary or appropriate to:

1. Assist the staff and advisors of the University of Missouri in implementing the project and in issuing such revenue bonds for the state's share of the project cost; and
 2. Execute and deliver documents and certificates related to such revenue bonds consistent with the terms of this concurrent resolution; and
-

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved July 12, 2001

HOUSE CONCURRENT RESOLUTION NO. 33

WHEREAS, Agramarke Quality Grains, Inc., a Missouri cooperative association, will provide economic development for the St. Joseph area; and

WHEREAS, the United States Department of Agriculture emphasizes the importance of guiding agriculture toward value-added opportunities; and

WHEREAS, agricultural producers will own 100% of the facility, provide over 110 jobs in the area, and realize between three and five million dollars per year in profits and premiums; and

WHEREAS, the facility purchase price is far below the price of new construction and will provide a new purpose for the Quaker Oats facility which has been in existence since 1926; and

WHEREAS, the United States Department of Agriculture provides many beneficial programs which will be crucial to the success of the project; and

WHEREAS, without the assistance of the United States Department of Agriculture programs, this young company may never develop; and

WHEREAS, the United States Department of Agriculture maintains a community population requirement of 50,000 for use of rural development economic incentive programs; and

WHEREAS, the city of St. Joseph remains not far above the threshold with a population of approximately 75,000:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby urge the United States Department of Agriculture to grant a waiver for Agramarke Quality Grains, Inc., for development in St. Joseph, Missouri, to allow Agramarke to qualify for rural development economic incentive programs; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives, Secretary Ann M. Veneman of the United States Department of Agriculture and each member of the Missouri congressional delegation.

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 1

BE IT RESOLVED by the Senate, the House of Representatives concurring therein, that the President Pro Tem and Co-Pro Tem of the Senate and the Speaker of the House appoint a committee of thirty-six members, one-half from the Senate and one-half from the House to cooperate in making all necessary plans and arrangements for the participation of the General Assembly in the inauguration of the executive officials of the State of Missouri on January 8, 2001; and that the joint committee is authorized to expend the necessary amount in making such plans and arrangements; with expenses to be paid from the joint contingent fund; and

BE IT FURTHER RESOLVED that the Administration Committee of the Senate and the Accounts Committee of the House of Representatives audit, allow and pay the expenses of the legislative participation of the inauguration and that the joint committee be authorized to cooperate with any other committees, officials or persons planning and executing the inaugural ceremonies keeping with the traditions of the great State of Missouri.

SENATE CONCURRENT RESOLUTION NO. 3

WHEREAS, on May 14, 1804, at the request of President Thomas Jefferson, Meriwether Lewis and William Clark set out on an amazing expedition across the Louisiana Territory to explore the country west of the Mississippi by following the Missouri River to its headwaters in order to discover a water route to the Pacific Ocean; and

WHEREAS, Lewis and Clark faced unknown people, harsh conditions and unexplored lands to secure a place in history as two of the world's greatest explorers; and

WHEREAS, the Lewis and Clark Expedition was successful in not only discovering a westward river route to the Pacific, but also in mapping the new territory and describing previously unknown plant and animal life; and

WHEREAS, as a result of the expedition, claims were established to Oregon, Washington and Idaho, our knowledge of the land west of the Mississippi was greatly expanded and new opportunities were provided for settlement and trade along the Missouri River; and

WHEREAS, the bicentennial of the Lewis and Clark Expedition is approaching with towns along the expedition route planning festivals, parties and commemorations of the explorers that helped to shape their history:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-First General Assembly, First Regular Session, the House of Representatives concurring therein, hereby request the Department of Elementary and Secondary Education to develop a model curriculum for public school instruction concerning the Lewis and Clark Expedition which includes age-appropriate content for elementary and secondary grade levels and hereby request all school districts to include age-appropriate curriculum and instruction regarding the

Lewis and Clark Expedition, to include material on Sacajawea and York, in regular courses of instruction beginning with the 2002-2003 school year; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Commissioner of Education and the President of the State Board of Education.

**SENATE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 6**

Establishes April 6th of each year as Tartan Day in Missouri.

WHEREAS, the Declaration of Arbroath, the Scottish Declaration of Independence, from which the American Declaration of Independence was modeled, was signed on April 6, 1320; and

WHEREAS, Scottish Americans played a major role in the founding of this Nation, almost half of the signers of our Declaration of Independence and the governors of nine of the original 13 states were of Scottish descent; and

WHEREAS, Scottish Americans helped shape this nation in its formative years, guided it through troubled times, and have made invaluable contributions to America in the fields of science, technology, medicine, government and many other areas; and

WHEREAS, the members of the Missouri General Assembly wish to salute to all Americans of Scottish descent as they celebrate their heritage:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-First General Assembly, First Regular Session, the House of Representatives concurring therein, hereby declare April 6th of each year as Tartan Day in Missouri; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for St. Andrews Society of St. Louis; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate shall submit this resolution to the Governor for his approval or rejection pursuant to the Constitution of Missouri.

Approved July 13, 2001

SENATE CONCURRENT RESOLUTION NO. 10

WHEREAS, the Railroad Retirement and Survivors Improvement Act of 2000 was approved in a bipartisan effort by 391 members of the United States House of Representatives in the 106th Congress, including the entire Missouri delegation to Congress; and

WHEREAS, more than 83 United States Senators, including both Missouri Senator Kit Bond and then Missouri Senator John Ashcroft, signed letters of support for this legislation in 2000; and

WHEREAS, the bill now before the 107th Congress modernizes the Railroad Retirement System for its 690,000 beneficiaries nationwide, including over 23,100 in Missouri; and

WHEREAS, railroad management, labor and retiree organizations have agreed to support this legislation; and

WHEREAS, this legislation provides tax relief to freight railroads, Amtrak and commuter lines; and

WHEREAS, this legislation provides benefit improvements for surviving spouses of rail workers, who currently suffer deep cuts in income when the rail retiree dies; and

WHEREAS, no outside contributions from taxpayers are needed to implement the changes called for in this legislation; and

WHEREAS, all changes will be paid for from within the railroad industry, including a full share by active employees:

NOW, THEREFORE, BE IT RESOLVED by the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, that the United States Congress are urged to support the Railroad Retirement and Survivors Improvement Act in the 107th Congress; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and all Missouri members of the Missouri Congressional delegation.

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 13**

WHEREAS, the United States Fish and Wildlife Service has recommended that the United States Army Corps of Engineers implement the so-called "spring rise-split season" plan for operation of the Missouri River mainstem reservoir system. This plan would result in an increase in the flow of the Missouri River in the spring and a reduction of the flow in the summer of each year, purportedly to improve habitat for the threatened and endangered pallid sturgeon, least tern and piping plover; and

WHEREAS, additional changes under consideration by the United States Army Corps of Engineers to the Missouri River Master Manual would result in the storage of more water in the upstream reservoirs while decreasing the amount of water available downstream for designated uses. These changes would shorten the navigation season on the Missouri River by twentyseven days in November and put at risk Mississippi River navigation as well; and

WHEREAS, analysis of the proposed changes by the state of Missouri and the United States Army Corps of Engineers has indicated these changes will fail to improve and will potentially diminish habitat for the species in question, will increase the risk of flooding along the Missouri River, and will result in a decrease in river levels in early summer and fall which will impact navigation and other designated uses on the Missouri and Mississippi Rivers; and

WHEREAS, habitat restoration along the lower Mississippi River has demonstrated great success in aiding the recovery of these species and a similar approach should be given the opportunity to succeed on the Missouri River; and

WHEREAS, these plans have the potential for severe impact on any industry which uses the Missouri River or Mississippi River to transport products and the potential to increase risk of flooding in river communities and on farm land in the Missouri and lower Mississippi River basins; and

WHEREAS, these proposals do not adequately address the concerns and needs of states in the lower Missouri and Mississippi River basin, and will not realize the purported benefit of increasing habitat for endangered species; and

WHEREAS, the Missouri departments of natural resources, conservation and transportation have opposed these plans and have informed the Fish and Wildlife Service and the United States Army Corps of Engineers of their concerns regarding the potential impact on the state's river communities, lands, businesses and wildlife habitat:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the Governor to protest against any proposals that would so negatively impact beneficial uses of the lower Missouri and Mississippi Rivers and would not significantly improve conditions for the species of concern; and

BE IT FURTHER RESOLVED that the members of the General Assembly urge the Department of Natural Resources, the Department of Conservation and the Department of Transportation to continue to insist that any plan involving the operations of the Missouri River improve the Missouri River for all beneficial uses and be sure any river management changes are based on sound science; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the Governor of Missouri, the Director of the Department of Natural Resources, the Director of the Department of Conservation and the Director of the Department of Transportation.

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 14**

WHEREAS, growing numbers of underinsured Missourians, an increasingly price-driven health care marketplace, and continued growth in enrollment of Medicaid beneficiaries are having critical implications for the future soundness of Missouri's health care safety net that serves a large portion of low-income and uninsured Missourians; and

WHEREAS, despite the nation's robust economy, certain populations in the state of Missouri continue to remain outside the medical and economic mainstream, having little or no access to stable health care coverage; and

WHEREAS, these populations include uninsured citizens of Missouri, low-income underinsured individuals, Medicaid beneficiaries, and patients with special health care needs who rely on safety providers for their care; and

WHEREAS, institutions and physicians in the state of Missouri that have a high level of demonstrated commitment to caring for the uninsured and underserved patients of Missouri are experiencing serious financial problems due to that commitment; and

WHEREAS, these providers in the state include ConnectCare in St. Louis, Truman Medical Centers in Kansas City and University of Missouri Health Care in Columbia, the only state-owned acute care facility serving the state's rural population, comprise Missouri's health care safety net; and

WHEREAS, the number of financially vulnerable people in the state is growing, the direct and indirect subsidies that have helped finance uncompensated care are eroding, and the rapid growth of Medicaid managed care are having significant adverse effects:

NOW, THEREFORE, BE IT RESOLVED by the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, hereby establish a Joint Interim Committee on Health Care to study the current funding system for safety net providers and develop legislative and budgetary policy that will ensure appropriate compensation as well as preserve the long-term viability of Missouri's safety net providers in recognition of the critical contribution these health care programs have made to the welfare of Missouri's citizens; and

BE IT FURTHER RESOLVED that said committee shall be composed of five members of the Senate, to be appointed by the President Pro Tem of the Senate, and five members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

BE IT FURTHER RESOLVED that said committee prepare a report, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the Second Regular Session of the Ninety-first General Assembly; and

BE IT FURTHER RESOLVED that Senate Research, the Committee on Legislative Research, and House Research shall provide such legal, research, clerical, technical and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the committee, its members and any staff personnel assigned to the committee incurred in attending meetings of the committee or any subcommittee thereof shall be paid from the Joint Contingent Fund.

SENATE CONCURRENT RESOLUTION NO. 16

WHEREAS, the members of the Missouri Senate recognize the problems our nation's military personnel experience to exercise their right to vote; and

WHEREAS, for those military personnel living overseas, timely notice of elections back home can be problematic for both those on active duty and their families; and

WHEREAS, as reports from Florida indicate, many military personnel are unable to return their ballots to local election authorities in a timely manner; and

WHEREAS, it is unconscionable that we would disenfranchise the very individuals who put their lives on the line to protect our democratic right to vote:

NOW, THEREFORE, BE IT RESOLVED that the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, unanimously recommend to the United States Congress that it review challenges faced by our military personnel and enact a comprehensive Military Voting Rights Act; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the members of the Missouri Congressional Delegation.

SENATE CONCURRENT RESOLUTION NO. 18

WHEREAS, telecommunications services and energy services and sources are vital to the economic vitality and well-being of the state of Missouri; and

WHEREAS, attempts across the nation to deregulate telecommunications services and energy services and sources have met with both success and failure in the effort to create competitive markets and make available new services and customer choices; and

WHEREAS, the state and political subdivisions have imposed taxes, fees and other assessments on various telecommunications and energy services which vary widely based on locality and, within a locality, may vary widely due to increasingly related and competitive services, such as telephone and cable television; and

WHEREAS, the current nationwide effort to establish competition in the production, distribution and sale of energy, including electricity, natural gas and other energy sources has potential benefits and adverse effects on energy producers, distributors, retailers, customers and the citizens of this state; and

WHEREAS, ensuring adequate and affordable telecommunications services and energy services and sources necessitate a fair and equitable tax structure across different telecommunications and energy services and across different regions of the state; and

WHEREAS, the issue of whether governmental entities should expend public resources to compete with private telecommunications and energy entities should be explored; and

WHEREAS, a Joint Interim Committee on Telecommunications and Energy has studied the above-mentioned issues during the tenure of the Ninetieth General Assembly and recommends that a similar study committee be established to continue the study during the tenure of the Ninety-first General Assembly:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, that a joint legislative committee on Telecommunications and Energy be created to be composed of seven members of the Senate, to be appointed by the President Pro Tem of the Senate, and seven members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, and that said committee be authorized to function throughout the Ninety-first General Assembly; and

BE IT FURTHER RESOLVED that said committee continue and expand the in-depth studies conducted by prior Joint Interim Committees on Telecommunications and Energy and make appropriate recommendations concerning financial, legal, social, taxation, environmental, technological and economic issues of telecommunications, cable television, all Internet services, including asymmetrical digital subscriber lines (ADSL) and service via cable lines, and energy services taxation, competition between governmental entities and private telecommunication entities, and any other issues the committee deems relevant; and

BE IT FURTHER RESOLVED that said committee continue and expand the in-depth studies conducted by prior Joint Interim Committees on Telecommunications and Energy and make appropriate recommendations concerning financial, legal, social, taxation, environmental, technological and economic issues of deregulation and increasing competition in energy production, distribution and sale, including consideration of the effects on residential customers, small and large business customers, utility shareholders and other stakeholders, and any other issues the committee deems relevant; with such studies to specifically include an analysis of (i) the existing and projected demands in this state for electric power and energy over the next ten years, and the basis for determining the projected demand; (ii) the adequacy and reliability of available and planned electric generation to serve the needs of customers in this state; (iii) permitting retail customers having load at a single premises in excess of 1 or 2 MW to utilize alternative sources of supply without adversely affecting state and municipal tax revenues; (iv) the adequacy and availability of available and planned transmission facilities used to transfer electricity into and within the state; and (v) incentives that would encourage the ongoing investment needed to ensure adequate generation and transmission capacity within the state; and

BE IT FURTHER RESOLVED that said committee prepare an interim report, which must at a minimum include a detailed summary of the committee's analysis of the adequacy and reliability of available and planned electric generation and transmission capacity to serve the projected needs of customers in this state currently and over the next ten years and incentives for ongoing investment and allowing retail customers having load at a single premises in excess of 1 or 2 MW to utilize alternative sources of supply without adversely affecting state and municipal tax revenues, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the Second Regular Session of the Ninety-first General Assembly but in any event no later than December 1, 2001, and a final report, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the First Regular Session of the Ninety-second General Assembly; and

BE IT FURTHER RESOLVED that said committee may solicit any input and information necessary to fulfill its obligations from the Missouri Public Service Commission, the Department of Economic Development, the Division of Energy within the Department of Natural Resources, the Office of Public Counsel, political subdivisions of this state, telecommunications and energy service providers, energy utilities and representatives of all telecommunications and energy customer groups; and

BE IT FURTHER RESOLVED that House Research, the Committee on Legislative Research, and Senate Research shall provide such legal, research, clerical, technical and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the committee, its members and any staff personnel assigned to the committee incurred in attending meetings of the committee or any subcommittee thereof shall be paid from the Joint Contingent Fund.

SENATE CONCURRENT RESOLUTION NO. 20

WHEREAS, the trucking industry is a major part of the Missouri economy with considerable interest in highway safety in our state; and

WHEREAS, the trucking industry employs thousands of commercial truck drivers that necessitates criminal background checks to insure that its drivers are responsible citizens; and

WHEREAS, the Missouri Uniform Law Enforcement System provides access to only criminal background information on criminal records in Missouri; and

WHEREAS, the National Crime Information Center under the Federal Bureau of Investigation is only available to law enforcement agencies for law enforcement purposes:

NOW, THEREFORE BE IT RESOLVED, that the members of the Missouri Senate, Ninety-First General Assembly, First Regular Session, the House of Representatives concurring therein, hereby recognize the need for the trucking industry to have access to such information in the interest of insuring that its drivers are responsible citizens and thus promoting safety on our highways and urges the United States Department of Justice to provide access to such information to the trucking industry; and

BE IT FURTHER RESOLVED, that the Missouri General Assembly urges the United States Congress to enact legislation to cause information contained in the National Online Information Center to be accessible to the trucking industry; and

BE IT FURTHER RESOLVED, that the Secretary of the Senate prepare property inscribed copies to each member of Missouri's Congressional delegation and the United States Department of Justice.

SENATE CONCURRENT RESOLUTION NO. 22

BE IT RESOLVED by the members of the Senate of the Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, that the Missouri Committee on Legislative Research shall prepare and cause to be collated, indexed, printed and bound all acts and resolutions of the Ninety-first General Assembly, First Regular Session, and shall examine the printed copies and compare them with and correct the same by the original rolls, together with an attestation under the hand of the Revisor of Statutes that he has compared the same with the original rolls in his office and has corrected the same thereby; and

BE IT FURTHER RESOLVED that the size and quality of the paper and binding shall be substantially the same used in prior session laws and the size and style of type shall be determined by the Revisor of Statutes; and

BE IT FURTHER RESOLVED that the Joint Committee on Legislative Research is authorized to print and bind copies of the acts and resolutions of the Ninety-first General Assembly, First Regular Session, with appropriate indexing; and

BE IT FURTHER RESOLVED that the Revisor of Statutes is authorized to determine the number of copies to be printed.

SENATE CONCURRENT RESOLUTION NO. 23

WHEREAS, the current crisis in the domestic steel industry which began in 1997 has led fourteen steel companies to file for bankruptcy, and now led to the bankruptcy of GS Industries and the announced closure of GST Steel in Kansas City which will cause job losses at GST and for vendors around the state resulting in hardship in those communities across the state of Missouri; and

WHEREAS, this crisis has been generated by surges in United States imports of steel, both from countries whose currencies have depreciated and from steel producing countries that are no longer able to export steel to the countries in economic crisis; and

WHEREAS, foreign government trade restrictions and private restraints of trade distort international trade and investment patterns and result in burdens on United States commerce, including absorption of a disproportionate share of diverted steel trade, which ultimately have a detrimental effect on this state's economy; and

WHEREAS, there is a well-recognized need for improvements in the enforcement of United States trade laws to provide an effective response to these situations:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-First General Assembly, First Regular Session, the House of Representatives concurring therein, hereby requests the President of the United States to commence immediate action to determine the entry into the customs territory of the United States of all steel products that are the product of or manufactured in Australia, China, South Africa, Ukraine, Kazakhstan, Indonesia, India, Japan, Russia, South Korea, Mexico or Brazil to determine whether the governments of those countries are abiding by the spirit and letter of international trade agreements with respect to imports of steel products into the United States, and take all actions necessary to enforce applicable trade agreements and laws of the United States pertaining to steel imports; and

BE IT FURTHER RESOLVED that the Missouri General Assembly requests the President of the United States to immediately impose a one-year ban on imports of all steel products of or are manufactured in Australia, China, South Africa, Ukraine, Kazakhstan, Indonesia, India, Japan, Russia, South Korea, Mexico or Brazil if the President finds that the governments of those countries are not abiding by the spirit and letter of international trade agreements with respect to imports of steel products into the United States; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States and the members of the Missouri Congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 26

WHEREAS, providing public education is the primary duty of the state after paying state debts, as provided pursuant to Article III, Section 36 of the Missouri Constitution; and

WHEREAS, public school buildings in Missouri have historically been funded mainly by local funds; and

WHEREAS, the ability of school districts to pay for buildings, as measured by a district's assessed value per pupil, varies by a factor of roughly seventeen between the wealthiest and least wealthy district in this state; and

WHEREAS, the Department of Elementary and Secondary Education recently conducted a comprehensive review of school district building needs and found the existing statewide need for new construction and renovation to be in excess of four billion dollars; and

WHEREAS, public education is a labor intensive operation with roughly three-fourths of operating cost supporting salaries and benefits of staff, and most of those salaries being paid to certificated teachers; and

WHEREAS, state school operating aid has increased significantly since the passage of SB 380 in 1993; and

WHEREAS, state minimum salary requirements for teachers have not been increased to keep up with increases in the cost of living; and

WHEREAS, state cost to fully fund state school aid continues to increase significantly each year and requires funds which create hardships for other sectors of society needing access to state funds; and

WHEREAS, the adequacy and equity of funding available to public schools has again become a serious concern across the state, highlighted by the wide range of available operating funding for Missouri school districts, which ranges from \$3500 per pupil to over \$11,000 per pupil:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, that a joint interim committee on education be created to be composed of seven members of the Senate, to be appointed by the President Pro Tem of the Senate, and seven members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

BE IT FURTHER RESOLVED that said committee conduct an in-depth study concerning all issues relating to funding for school buildings and building renovation, teachers' salaries,

equity and adequacy of distribution of state school aid and overall funding levels for schools and any other education-related issues the committee deems relevant; and

BE IT FURTHER RESOLVED, that the committee conduct an in depth review of funding sources for public education that could serve as a replacement for the property tax; and

BE IT FURTHER RESOLVED that said committee prepare a report, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the Second Regular Session of the Ninety-first General Assembly; and

BE IT FURTHER RESOLVED that said committee may solicit any input and information necessary to fulfill its obligations from the Missouri Department of Elementary and Secondary Education, the State Board of Education, the Department of Higher Education, the Coordinating Board for Higher Education, the State Tax Commission, all school districts and other political subdivisions of this state, teachers and teacher groups, business and other commercial interests and any other interested persons; and

BE IT FURTHER RESOLVED that House Research, the Committee on Legislative Research, and Senate Research shall provide such legal, research, clerical, technical and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the committee, its members and any staff personnel assigned to the committee incurred in attending meetings of the committee or any subcommittee thereof shall be paid from the Joint Contingent Fund and the committee shall prepare a report, together with its recommendations for any legislative action it deems necessary for submission to the Governor and the General Assembly by January 15, 2002. The committee shall be authorized to function until January 15, 2002.

SENATE CONCURRENT RESOLUTION NO. 27

WHEREAS, it is in the best interest of the State of Missouri, as an employer, to recruit and retain a high performance workforce; and

WHEREAS, the State of Missouri has established a benefits policy that encourages employees to continue in state employment with a career goal of 30 years of state service; and

WHEREAS, the State of Missouri has adopted specific benefit incentives associated with achieving this objective, which include:

- a) Creating a comprehensive benefits package that is externally competitive with the marketplace, and that is internally equitable;
 - b) Implementing a benefits package that provides employees with options for meeting their individual and family needs, and yet assures that basic levels of health care coverage will be maintained;
 - c) Ensuring equitable employer contributions for health care coverage for all state employees, retirees and dependents that assures high quality care in a cost-effective manner; and
 - d) Allowing career state employees to maintain a reasonable standard of living at retirement; and
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WHEREAS, achieving benefit equity and adequacy in the retiree health care area necessitates a subsidy which is dependent upon the length of state service rendered by former employees; and

WHEREAS, such state subsidy for retiree medical coverage would ensure that quality health care services are available to both the highest and lowest paid former employees:

NOW THEREFORE BE IT RESOLVED by the Missouri Senate, the House of Representatives concurring therein, that the State of Missouri hereby wishes to reward employees who make a career of state service through equitable retiree health care subsidies; and

BE IT FURTHER RESOLVED that, within the constraints of the available appropriations, the state contribution for medical coverage for retirees should be based upon a formula that has a direct relationship between the amount of the state subsidy and each retiree's length of service with the state, provided that any subsidy for retiree dependent coverage should be based upon a similar formula, but should not exceed the average state subsidy provided for dependents of active employees; and

BE IT FURTHER RESOLVED that former state employees who retired prior to the effective date of this policy may receive a state subsidy, depending on Medicare eligibility and available appropriations, of no less than the dollar amount subsidy resulting from the amount appropriated to the plan for calendar year 2001; and

BE IT FURTHER RESOLVED that it is recommended that the health care coverage for state retirees be based upon a service-based subsidy rate formula subject to available appropriations and is consistent with the goals that are established in the state's retirement plans.

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 28**

WHEREAS, recent high fuel prices have alerted us to the need to improve our nation's policies on fuel production and efficient use of energy; and

WHEREAS, the Organization of Petroleum Exporting Countries (OPEC) has recently suggested that they will reduce crude oil production again in an attempt to manipulate prices; and

WHEREAS, reductions in crude oil production have resulted in sharp increases in prices for natural gas, gasoline and home heating oil; and

WHEREAS, the United States has become dangerously dependent on foreign petroleum; and

WHEREAS, Missouri consumers are experiencing higher prices at the pump and in home heating costs and these high prices are negatively impacting their quality of life; and

WHEREAS, the economic stability of many areas of the state which rely on tourism may be jeopardized if the number of persons traveling to Missouri's vacation destinations is significantly reduced due to increased gasoline prices; and

WHEREAS, the trucking industry, heavily dependent on the availability and price of gasoline and diesel fuel, has been especially hard hit by the increase in fuel costs that have resulted in a significant increase in the transportation costs associated with the delivery of consumer goods throughout the state. Such an increase in cost to the trucking industry will inevitably be passed along to consumers as an increase in the price of consumer goods; and

WHEREAS, the increased petroleum fuel costs is particularly detrimental to Missouri family farmers because it comes at a time when overall market prices are low; and

WHEREAS, fuel prices could be reduced by increasing domestic production and encouraging the development of markets for products that can be used as the source material for renewable alternative fuels:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate of the Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the United States Congress to actively address the issue of fuel prices and take immediate actions necessary to reduce our nation's dependency on foreign petroleum sources, boost our own economy, and increase energy efficiency by:

(1) Encouraging exploration for domestic petroleum sources in a manner that does not, based on established scientific principles, adversely impact the environment;

(2) Encouraging and creating incentives for fuel conservation measures that do not, based on established economic principles, harm the economy; and

(3) Encouraging and creating incentives for research, development and use of solar and other alternative fuel sources, including ethanol and other fuels made from renewable materials that would not only reduce our dependency on foreign petroleum, but also have the potential to improve environmental protection and boost local economies; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives, Secretary Gale Norton of the United States Department of the Interior, Secretary Spencer Abraham of the United States Department of Energy, Secretary Ann M. Veneman of the United States Department of Agriculture, Administrator Christine Todd Whitman of the United States Environmental Protection Agency, the White House Office of Management and Budget, and each member of the Missouri Congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 31

WHEREAS, the citizens of Missouri believe in the principles of free markets, limited government, federalism and individual liberty are essential to providing the greatest amount of economic and political freedom for our citizens; and

WHEREAS, careful stewardship of our nation's precious natural resources is essential if future generations are to enjoy and prosper from them; and

WHEREAS, voluntary industry leadership in the private sector is the best method of productive and economically viable environmental stewardship of our land, forests, water and wild life; and

WHEREAS, the General Assembly believes that voluntary forest product management and leadership by the private sector in sustaining forest resources is preferable to government imposed resource management mandates; and

WHEREAS, Americans have taken pride in their nations' rich bounty of natural resources, and careful stewardship of these precious assets is essential if future generations are to enjoy and benefit from them; and

WHEREAS, the forest products industry, an essential component of the nation's economy sustaining businesses, families, and rural communities since its founding, is comprised of more than 34,000 employees and 400,000 forest landowners; and

WHEREAS, close to one-third of the nation's land is forested, with 14 million acres in Missouri alone, the vital importance of the industry underscores the necessity for intelligent management of the over 736 million acres of America's forest land; and

WHEREAS, the forest products industry relies on forest resources to make this state one of the leading producers of wood flooring, staves, furniture, cabinetry, lumber, pallets, charcoal, and other wood products, and to meet society's increasing demand for wood and wood-related products important to our nation's quality of life; and

WHEREAS, America's forest products companies have made considerable capital improvements in recycling, and the industry nationally has voluntarily set a goal to recover 50% of the paper it produces; and

WHEREAS, Missouri's forest products industry, in recognition of its stewardship responsibilities in nurturing the forest resources, has pledged itself to the continuing principles of sustainable forestry by initiating the "Sustainable Forestry Initiative Program", a comprehensive program committed to responsible environmental stewardship of the forests, water resources and wild life; and

WHEREAS, the goal of the Sustainable Forestry Initiative Program is to educate the public as to the importance of industry leadership in voluntarily protecting these valuable resources, and to promote and monitor the progress made toward this worthy goal; and

WHEREAS, the Missouri Forest Products Association's members are actively demonstrating a commitment to the principles of sustainable forestry and are bench marking this commitment by implementing Sustainable Forestry Initiative Program principles and practices, such as prompt reforestation and protection of water quality and wildlife habitat:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, recognize the Missouri Forest Products Association's member companies, forest landowners and loggers and the state's forest products industry for its commitment to the responsible use of natural resources, and commend the creation and implementation of the Sustainable Forestry Initiative Program as a means to this end; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare copies of this resolution for the Missouri Forest Products Association.

ADMINISTRATION, OFFICE OF

- SB 470 Creates the Second State Capitol Commission.
HB 5 Appropriations for the Office of Administration, Department of Transportation and Chief Executive's Office.
HB 207 Allows vehicles to be donated for veterans, and provides matching grants for veterans' service officers.

ADMINISTRATIVE LAW

- SB 270 Certain chief administrative law judges shall be elected for two years.
HB 693 Revises certain procedures for Administrative Hearing Commission and extends AHC jurisdiction.

AGRICULTURE AND ANIMALS

- SB 462 Revises numerous provisions relating to agriculture.
HB 219 Amends various provisions of the fencing law.
HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.
HB 904 Expands the MO Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.

AGRICULTURE DEPT.

- SB 462 Revises numerous provisions relating to agriculture.
HB 6 Appropriations for the departments of Natural Resources, Agriculture and Conservation.
HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.

AIRCRAFT AND AIRPORTS

- HB 163 Includes moneys for certain reimbursements within the Highway Patrol Motor Vehicle and Aircraft Revolving Fund.
HB 742 Authorizes the Governor to sell certain property in Platte County.
HB 922 Authorizes city of Monett to annex municipal airport.

ALCOHOL

- SB 130 Requires placement of warning signs in establishments licensed to sell or serve alcoholic beverages.
HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.

AMBULANCES AND AMBULANCE DISTRICTS

- SB 619 Changes provisions for emergency care service providers; state easement to City of Sedalia.

APPROPRIATIONS

- HB 1 Public debt appropriation.
- HB 2 Appropriations for the State Board of Education and the Department of Elementary and Secondary Education.
- HB 3 Appropriation for the Department of Higher Education.
- HB 4 Appropriations for the departments of Revenue and Transportation.
- HB 5 Appropriations for the Office of Administration, Department of Transportation and Chief Executive's Office.
- HB 6 Appropriations for the departments of Natural Resources, Agriculture and Conservation.
- HB 7 Appropriations for the departments of Economic Development, Insurance and Labor and Industrial Relations.
- HB 8 Appropriations for the Department of Public Safety.
- HB 9 Appropriation for the Department of Corrections.
- HB 10 Appropriations for the depts. of Health & Mental Health, the Board of Public Bldgs. & the MO Health Facets. Review Comm..
- HB 11 Appropriations for the Department of Social Services.
- HB 12 Appropriations for state elected officials, judiciary and the General Assembly.
- HB 13 Appropriates money for real property leases.
- HB 14 Appropriates money for expenses, grants and distributions of tobacco settlement proceeds.
- HB 15 Supplemental appropriations for several departments and offices of state government.
- HB 16 To appropriate money for capital improvement and other purposes.
- HB 17 To appropriate money for expenses, grants, refunds, distributions and other purposes.
- HB 18 Appropriates money for capital improvement projects.
- HB 19 Appropriates money for planning, expenses and capital improvements.

ATTORNEY GENERAL, STATE

- SB 5 Revises Criminal Activity Forfeiture Act.
- SB 87 Requires assessment to be filed with petition for civil commitment of sexually violent predators.
- SB 544 Authorizes the Missouri Veterans' Commission to grant an easement to Spectra Communications.
- HB 107 Creates procedures for disbursements from the Tort Victim's Compensation Fund.
- HB 144 Requires warrant checks prior to release of prisoners.
- HB 381 Creates felony for sale or distribution of gray market cigarettes & enforcement provisions to prohibit sales to minors.
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ATTORNEYS

- HB 52 Prohibits the prosecuting attorney of St. Francois County from engaging in the private practice of law.

AUDITOR, STATE

- SB 5 Revises Criminal Activity Forfeiture Act.

BANKS AND FINANCIAL INSTITUTIONS

- SB 179 Exempts residential mortgage brokers who post sufficient bond from conducting annual certified audits.
- SB 186 Changes provisions pertaining to entities regulated by the Division of Finance.
- SB 382 Prohibits release of nonpublic information by financial institutions.
- SB 441 Allows Warrensburg to receive bids to be the depository of city funds from banks at every regular meeting.
- SB 538 Allows residential mortgage brokers to post bond instead of providing annual audits.
- HB 241 Revises the principal and income act and the rule against perpetuities; revises estate tax.
- HB 644 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.
- HB 664 Makes changes to charitable gift annuities provisions.
- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.
- HB 801 Prohibits release of nonpublic information by financial institutions.

BOARDS, COMMISSIONS, COMMITTEES, COUNCILS

- SB 86 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
- SB 207 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- SB 224 Authorizes the creation of law enforcement districts in Camden County funded with property tax.
- SB 274 Modifies provisions relating to employees and contributions to the County Employee's Retirement System.
- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- SB 352 Defines terms relating to the capital improvements sales tax in certain municipalities.
- SB 430 Allows St. Louis City to levy property tax for musical services.
- SB 441 Allows Warrensburg to receive bids to be the depository of city funds from banks at every regular meeting.
- SB 538 Allows residential mortgage brokers to post bond instead of providing annual audits.

- HB 45 Removes the one-year residency requirement for the Commissioner of Education.
- HB 78 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- HB 185 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
- HB 218 Creates several education and research programs and closes board meetings to student representatives.
- HB 236 Establishes the Juvenile Information Governance Commission.
- HB 441 Allows World War I, World War II and Korean War veterans to receive a high school diploma.
- HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.
- HB 621 Creates Missouri State Penitentiary Redevelopment Commission.

BOATS AND WATERCRAFT

- SB 556 Authorizes microbrewing licenses on excursion gambling boats and premises.

BONDS-GENERAL OBLIGATION AND REVENUE

- HB 501 Increases the authorization for water pollution bonds; changes sewer district provisions for certain districts.
- HCR 025 Authorizes revenue bonds for the state's share of the construction of a sports arena at the Univ. of MO-Columbia.

BONDS-SURETY

- SB 538 Allows residential mortgage brokers to post bond instead of providing annual audits.
- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.

BUSES

- HB 458 Permits the use of flashing signals by church buses.

BUSINESS AND COMMERCE

- SB 374 Establishes a program of air pollution emissions banking and trading.
- SB 382 Prohibits release of nonpublic information by financial institutions.
- SB 387 Allows electric utilities to recover certain costs impacted by fuel or purchased power price increases.
- SB 500 Revises certain job training programs.
- HB 266 Limits to whom real estate brokers and agents may pay commissions or other consideration.
- HB 575 Revises motor vehicle franchise practices law and creates recreational vehicle franchise law.
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- HB 788 Repeals certain provisions relating to motorcycle franchise practices.
HB 801 Prohibits release of nonpublic information by financial institutions.

CAPITAL IMPROVEMENTS

- SB 303 Allows school districts to directly enter into lease purchases with vendors.
SB 352 Defines terms relating to the capital improvements sales tax in certain municipalities.
SB 470 Creates the Second State Capitol Commission.
SB 543 Revises school district transfers of funds for capital purposes.
HB 725 Allows certain districts to transfer additional funds for capital purposes.

CEMETERIES

- HB 408 Authorizes conveyances of graves in public cemeteries back to the county or municipality.

CHARITIES

- HB 664 Makes changes to charitable gift annuities provisions.

CHILDREN AND MINORS

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.
SB 236 Modifies provisions relating to children and families.
SB 348 Modifies procedures for the adoption of foster children.
SB 575 Revises public school reporting requirements.
HB 279 Expands the newborn screening requirements to include more treatable and manageable disorders.
HB 381 Creates felony for sale or distribution of gray market cigarettes & enforcement provisions to prohibit sales to minors.
HB 454 Allows a guardian and conservator who is the spouse of ward to remain guardian or conservator after divorce.
HB 865 Revises public school reporting requirements.

CIRCUIT CLERK

- SB 371 Modifies and clarifies provisions of certain state retirement systems.

CITIES, TOWNS AND VILLAGES

- SB 4 Peace officers information within the Dept. of Revenue is confidential and changes salary for Kansas City police.
SB 86 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
SB 197 Expands grant of immunity for the donation of certain fire equipment.
SB 256 Pertains to water, stormwater and sewer service.

- SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.
- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- SB 345 Relating to property maintenance codes.
- SB 352 Defines terms relating to the capital improvements sales tax in certain municipalities.
- SB 369 Allows political subdivisions to require permits for public utility right-of-way use.
- SB 407 Allows motorists to receive Missouri Botanical and various municipal zoo specialized license plates.
- SB 430 Allows St. Louis City to levy property tax for musical services.
- SB 441 Allows Warrensburg to receive bids to be the depository of city funds from banks at every regular meeting.
- HB 185 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
- HB 242 Authorizes several cities and counties to impose tourism taxes.
- HB 409 Authorizes a conveyance between the Missouri national guard and the city of Joplin.
- HB 410 Allows expanded weed removal procedures in the city of St. Peter's.
- HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.
- HB 491 Eliminates office of marshall in third classification cities contracting for police services.
- HB 498 Changes the petitioning provisions for opting out of the city manager form of government for certain cities.
- HB 501 Increases the authorization for water pollution bonds; changes sewer district provisions for certain districts.
- HB 909 Authorizes exchange of property interests between the Department of Natural Resources and the City of Lexington.
- HJR 011 Proposes a constitutional amendment to allow the City of St. Louis to amend charter to provide for county officers.

CIVIL PROCEDURE

- SB 5 Revises Criminal Activity Forfeiture Act.
- SB 10 Modifies judicial procedures for expiration of qualified domestic relations orders.
- SB 87 Requires assessment to be filed with petition for civil commitment of sexually violent predators.
- SB 267 Revises various civil and criminal procedures.
- SB 382 Prohibits release of nonpublic information by financial institutions.
- HB 107 Creates procedures for disbursements from the Tort Victim's Compensation Fund.
- HB 241 Revises the principal and income act and the rule against perpetuities; revises estate tax.
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HB 801 Prohibits release of nonpublic information by financial institutions.

CIVIL RIGHTS

SB 87 Requires assessment to be filed with petition for civil commitment of sexually violent predators.

CONSERVATION DEPT.

SB 58 Establishes a Bird Appreciation Day.

HB 6 Appropriations for the departments of Natural Resources, Agriculture and Conservation.

HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.

HB 904 Expands the MO Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.

CONSTITUTIONAL AMENDMENTS

HJR 011 Proposes a constitutional amendment to allow the City of St. Louis to amend charter to provide for county officers.

CONSTRUCTION AND BUILDING CODES

SB 86 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.

HB 185 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.

CONSUMER PROTECTION

SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.

SB 110 Corrects intersectional references in law regulating the manufacture, renovation and sale of mattresses.

SB 186 Changes provisions pertaining to entities regulated by the Division of Finance.

SB 382 Prohibits release of nonpublic information by financial institutions.

SB 514 Requires compliance with federal law in drug labeling.

HB 575 Revises motor vehicle franchise practices law and creates recreational vehicle franchise law.

HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.

HB 801 Prohibits release of nonpublic information by financial institutions.

CONTRACTS AND CONTRACTORS

HB 129 Prohibits certain government contracts for the examination of taxpayer records.

CORPORATIONS

- SB 178 Amends law regarding condominium association's bylaws and limited liability company filing requirements.
- SB 288 Revises provisions relating to recorders of deeds, corporations and matters regulated by the Secretary of State.
- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.

CORRECTIONS DEPT.

- SB 200 Creates Women Offender Program in the Department of Corrections.
- HB 9 Appropriation for the Department of Corrections.
- HB 144 Requires warrant checks prior to release of prisoners.
- HB 180 Creates a women offender program in the department of corrections.
- HB 621 Creates Missouri State Penitentiary Redevelopment Commission.

COUNTIES

- SB 86 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
- SB 274 Modifies provisions relating to employees and contributions to the County Employee's Retirement System.
- SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.
- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- SB 341 Requires sheriffs to become certified peace officers.
- SB 345 Relating to property maintenance codes.
- SB 369 Allows political subdivisions to require permits for public utility right-of-way use.
- SB 462 Revises numerous provisions relating to agriculture.
- SB 515 Modifies requirements for items that are filed with the Recorder of Deeds.
- HB 84 Mandates that expenses for training sessions for county recorders in certain counties be reimbursed.
- HB 185 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
- HB 202 Modifies provisions relating to transportation development districts.
- HB 219 Amends various provisions of the fencing law.
- HB 242 Authorizes several cities and counties to impose tourism taxes.
- HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.
- HB 502 Authorizes a conveyance of certain property in St. Francois County to the American Legion.
- HB 606 Modifies requirements for items that are filed with the recorders of deeds.
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- HB 745 Allows unclaimed property to be collected by a county or city public administrator.
- HB 945 Raises juror pay and transfers certain Greene County court fees to justice fund.

COUNTY GOVERNMENT

- SB 274 Modifies provisions relating to employees and contributions to the County Employee's Retirement System.
- SB 341 Requires sheriffs to become certified peace officers.
- SB 345 Relating to property maintenance codes.
- SB 515 Modifies requirements for items that are filed with the Recorder of Deeds.
- HB 606 Modifies requirements for items that are filed with the recorders of deeds.

COUNTY OFFICIALS

- SB 274 Modifies provisions relating to employees and contributions to the County Employee's Retirement System.
- SB 288 Revises provisions relating to recorders of deeds, corporations and matters regulated by the Secretary of State.
- SB 341 Requires sheriffs to become certified peace officers.
- SB 345 Relating to property maintenance codes.
- SB 515 Modifies requirements for items that are filed with the Recorder of Deeds.
- HB 52 Prohibits the prosecuting attorney of St. Francois County from engaging in the private practice of law.
- HB 84 Mandates that expenses for training sessions for county recorders in certain counties be reimbursed.
- HB 157 Changes date for return of marriage licenses to the issuing official; prohibits same sex marriage.
- HB 606 Modifies requirements for items that are filed with the recorders of deeds.
- HB 745 Allows unclaimed property to be collected by a county or city public administrator.

COURTS

- SB 10 Modifies judicial procedures for expiration of qualified domestic relations orders.
- SB 87 Requires assessment to be filed with petition for civil commitment of sexually violent predators.
- SB 267 Revises various civil and criminal procedures.
- SB 382 Prohibits release of nonpublic information by financial institutions.
- HB 107 Creates procedures for disbursements from the Tort Victim's Compensation Fund.
- HB 236 Establishes the Juvenile Information Governance Commission.
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- HB 801 Prohibits release of nonpublic information by financial institutions.
HB 945 Raises juror pay and transfers certain Greene County court fees to justice fund.

COURTS, JUVENILE

- SB 236 Modifies provisions relating to children and families.
HB 236 Establishes the Juvenile Information Governance Commission.

CREDIT AND BANKRUPTCY

- SB 186 Changes provisions pertaining to entities regulated by the Division of Finance.
HB 459 Allows the estimation of contingent liabilities for the purpose of fixing a creditor's claim in a liquidation estate.

CREDIT UNIONS

- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.

CRIMES AND PUNISHMENT

- SB 5 Revises Criminal Activity Forfeiture Act.
SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
SB 200 Creates Women Offender Program in the Department of Corrections.
SB 223 Clarifies procedure for court instructions regarding lesser included offenses.
SB 267 Revises various civil and criminal procedures.
SB 435 Exempts registered historic vehicles from emissions testing.
HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.
HB 144 Requires warrant checks prior to release of prisoners.
HB 180 Creates a women offender program in the department of corrections.
HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.
HB 381 Creates felony for sale or distribution of gray market cigarettes & enforcement provisions to prohibit sales to minors.
HB 471 Adds the drug "ecstasy" to drug trafficking statutes.

CRIMINAL PROCEDURE

- SB 223 Clarifies procedure for court instructions regarding lesser included offenses.
SB 267 Revises various civil and criminal procedures.
HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.
HB 144 Requires warrant checks prior to release of prisoners.
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DENTISTS

- SB 393 Expands provisions regarding dental services.
HB 607 Expands provisions allowing gratuitous dental services.

DISABILITIES

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.
SB 111 Revenue Department to cooperate in federal-state agreement to recognize disabled persons license plates.
SB 236 Modifies provisions relating to children and families.
SB 275 Allows the placement of a deaf or hearing impaired notation on driver's licenses.
SB 321 Revises laws pertaining to sheltered workshops.
HB 590 The directors of the departments of economic development and revenue shall jointly administer the ADA tax credit.

DOMESTIC RELATIONS

- HB 537 Amends various statutes relating to marriage by adding gender neutral language.

DRUGS AND CONTROLLED SUBSTANCES

- SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
SB 514 Requires compliance with federal law in drug labeling.
HB 471 Adds the drug "ecstasy" to drug trafficking statutes.
HB 796 Requires compliance with the current federal labeling requirements in the Federal Food, Drug & Cosmetic Act.

DRUNK DRIVING/BOATING

- HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.

EASEMENTS AND CONVEYANCES

- SB 252 Authorizes the Missouri National Guard and the City of Joplin to exchange two parcels of property.
SB 301 Allows Missouri Western to convey property to the Extension Council of Buchanan County.
SB 383 Authorizes the Governor to sell certain property in Platte County.
SB 394 Authorizes Southwest Missouri State University to convey a certain piece of property.
SB 544 Authorizes the Missouri Veterans' Commission to grant an easement to Spectra Communications.
SB 553 Authorizes Northwest Missouri State to lease property to the City of Maryville and the National Guard.

- SB 568 Authorizes certain property exchanges.
SB 619 Changes provisions for emergency care service providers; state easement to City of Sedalia.
HB 361 Authorizes the Governor to convey the rights to certain water held in Mark Twain Lake.
HB 408 Authorizes conveyances of graves in public cemeteries back to the county or municipality.
HB 409 Authorizes a conveyance between the Missouri national guard and the city of Joplin.
HB 502 Authorizes a conveyance of certain property in St. Francois County to the American Legion.
HB 600 Authorizes Southwest Missouri State University to convey a certain piece of property.
HB 742 Authorizes the Governor to sell certain property in Platte County.
HB 779 Authorizes Northwest Missouri State to lease property to the City of Maryville and the National Guard.
HB 808 Authorizes the conveyance of property located in Cole County to Jefferson City and the Governor Hotel, LLC.
HB 909 Authorizes exchange of property interests between the Department of Natural Resources and the City of Lexington.
HB 922 Authorizes city of Monett to annex municipal airport.

ECONOMIC DEVELOPMENT

- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
SB 500 Revises certain job training programs.
HB 596 Makes a technical change in statute dealing with planned industrial expansion in St. Louis.
HB 621 Creates Missouri State Penitentiary Redevelopment Commission.
HB 904 Expands the MO Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.

ECONOMIC DEVELOPMENT DEPT.

- SB 186 Changes provisions pertaining to entities regulated by the Division of Finance.
SB 317 Exempts used manufactured homes and certain used modular units from complying with manufactured housing codes.
SB 357 Modifies licensing provisions for psychologists and professional counselors.
SB 382 Prohibits release of nonpublic information by financial institutions.
SB 384 Adds additional criteria for the denial or revocation of dietitians' licenses.
SB 500 Revises certain job training programs.
SB 538 Allows residential mortgage brokers to post bond instead of providing annual audits.
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- HB 7 Appropriations for the departments of Economic Development, Insurance and Labor and Industrial Relations.
- HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.
- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.
- HB 801 Prohibits release of nonpublic information by financial institutions.

EDUCATION, ELEMENTARY AND SECONDARY

- SB 58 Establishes a Bird Appreciation Day.
- SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
- SB 201 Governor shall declare February as Missouri Lifelong Learning Month.
- SB 303 Allows school districts to directly enter into lease purchases with vendors.
- SB 316 Requires school retirement systems to promulgate joint rules.
- SB 319 Revises assessments of public school students.
- SB 353 Revises "recalculated levy" used to determine state aid for certain school districts.
- SB 543 Revises school district transfers of funds for capital purposes.
- SB 575 Revises public school reporting requirements.
- HB 2 Appropriations for the State Board of Education and the Department of Elementary and Secondary Education.
- HB 274 Revises school calendar requirements for the 2000-2001 school year.
- HB 441 Allows World War I, World War II and Korean War veterans to receive a high school diploma.
- HB 725 Allows certain districts to transfer additional funds for capital purposes.
- HB 865 Revises public school reporting requirements.

EDUCATION, HIGHER

- SB 25 Removes prohibition on collection of "tuition" by the University of Missouri.
- SB 201 Governor shall declare February as Missouri Lifelong Learning Month.
- SB 295 Revises use of capital funds for public community colleges.
- SB 301 Allows Missouri Western to convey property to the Extension Council of Buchanan County.
- SB 394 Authorizes Southwest Missouri State University to convey a certain piece of property.
- SB 500 Revises certain job training programs.
- SB 553 Authorizes Northwest Missouri State to lease property to the City of Maryville and the National Guard.
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- HB 600 Authorizes Southwest Missouri State University to convey a certain piece of property.
- HB 779 Authorizes Northwest Missouri State to lease property to the City of Maryville and the National Guard.
- HB 904 Expands the MO Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.

ELDERLY

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.
- HB 603 Promotes Alzheimer's awareness and creates the Department of Health and Senior Services.

ELECTIONS

- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- SB 341 Requires sheriffs to become certified peace officers.
- HB 491 Eliminates office of marshall in third classification cities contracting for police services.
- HB 498 Changes the petitioning provisions for opting out of the city manager form of government for certain cities.
- HB 1000 Changes the composition of congressional districts.

ELEMENTARY AND SECONDARY EDUCATION DEPT.

- SB 303 Allows school districts to directly enter into lease purchases with vendors.
- SB 319 Revises assessments of public school students.
- SB 321 Revises laws pertaining to sheltered workshops.
- SB 353 Revises "recalculated levy" used to determine state aid for certain school districts.
- SB 543 Revises school district transfers of funds for capital purposes.
- SB 575 Revises public school reporting requirements.
- HB 45 Removes the one-year residency requirement for the Commissioner of Education.
- HB 274 Revises school calendar requirements for the 2000-2001 school year.
- HB 441 Allows World War I, World War II and Korean War veterans to receive a high school diploma.
- HB 725 Allows certain districts to transfer additional funds for capital purposes.
- HB 865 Revises public school reporting requirements.

EMERGENCIES

- SB 619 Changes provisions for emergency care service providers; state easement to City of Sedalia.
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EMPLOYEES-EMPLOYERS

SB 500 Revises certain job training programs.

ENERGY

SB 387 Allows electric utilities to recover certain costs impacted by fuel or purchased power price increases.

SB 451 Allows spending of the Energy Set-aside Program Fund for administration of DNR's energy responsibilities and activities.

HB 425 Revises the operation and participation of the one call notification center for excavators.

ENTERTAINMENT, SPORTS AND AMUSEMENTS

SB 86 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.

SB 430 Allows St. Louis City to levy property tax for musical services.

HB 185 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.

HCR 025 Authorizes revenue bonds for the state's share of the construction of a sports arena at the Univ. of MO-Columbia.

ENVIRONMENTAL PROTECTION

SB 374 Establishes a program of air pollution emissions banking and trading.

SB 435 Exempts registered historic vehicles from emissions testing.

HB 410 Allows expanded weed removal procedures in the city of St. Peter's.

HB 425 Revises the operation and participation of the one call notification center for excavators.

HB 453 Modifies various provisions relating to commerce.

HB 501 Increases the authorization for water pollution bonds; changes sewer district provisions for certain districts.

HB 904 Expands the MO Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.

ESTATES, WILLS AND TRUSTS

SB 227 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.

HB 241 Revises the principal and income act and the rule against perpetuities; revises estate tax.

HB 644 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.

EVIDENCE

SB 10 Modifies judicial procedures for expiration of qualified domestic relations orders.

- SB 87 Requires assessment to be filed with petition for civil commitment of sexually violent predators.
- SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
- SB 223 Clarifies procedure for court instructions regarding lesser included offenses.
- HB 241 Revises the principal and income act and the rule against perpetuities; revises estate tax.

FAIRS

- SB 619 Changes provisions for emergency care service providers; state easement to City of Sedalia.

FAMILY LAW

- SB 10 Modifies judicial procedures for expiration of qualified domestic relations orders.
- SB 227 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.
- SB 236 Modifies provisions relating to children and families.
- SB 348 Modifies procedures for the adoption of foster children.
- HB 454 Allows a guardian and conservator who is the spouse of ward to remain guardian or conservator after divorce.
- HB 537 Amends various statutes relating to marriage by adding gender neutral language.
- HB 644 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.

FAMILY SERVICES DIVISION

- SB 236 Modifies provisions relating to children and families.
- SB 348 Modifies procedures for the adoption of foster children.

FEDERAL-STATE RELATIONS

- SB 5 Revises Criminal Activity Forfeiture Act.
- SB 111 Revenue Department to cooperate in federal-state agreement to recognize disabled persons license plates.
- HB 1000 Changes the composition of congressional districts.

FEES

- SB 267 Revises various civil and criminal procedures.
- SB 288 Revises provisions relating to recorders of deeds, corporations and matters regulated by the Secretary of State.
- SB 515 Modifies requirements for items that are filed with the Recorder of Deeds.
- HB 453 Modifies various provisions relating to commerce.
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- HB 606 Modifies requirements for items that are filed with the recorders of deeds.
- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.

FIRE PROTECTION

- SB 197 Expands grant of immunity for the donation of certain fire equipment.
- SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.

FUNERALS AND FUNERAL DIRECTORS

- HB 48 Revises provisions for funeral directors and embalmers.

GENERAL ASSEMBLY

- SB 470 Creates the Second State Capitol Commission.
- SRB0606 Repeals obsolete and expired sections of law.
- HB 12 Appropriations for state elected officials, judiciary and the General Assembly.
- HCR 025 Authorizes revenue bonds for the state's share of the construction of a sports arena at the Univ. of MO-Columbia.

GOVERNOR & LT. GOVERNOR

- SB 201 Governor shall declare February as Missouri Lifelong Learning Month.
- SB 383 Authorizes the Governor to sell certain property in Platte County.
- SB 431 Authorizes the Governor to convey the rights to certain water held in Mark Twain Lake.
- SB 470 Creates the Second State Capitol Commission.
- HB 5 Appropriations for the Office of Administration, Department of Transportation and Chief Executive's Office.
- HB 361 Authorizes the Governor to convey the rights to certain water held in Mark Twain Lake.

GUARDIANS

- SB 236 Modifies provisions relating to children and families.
- SB 348 Modifies procedures for the adoption of foster children.
- HB 454 Allows a guardian and conservator who is the spouse of ward to remain guardian or conservator after divorce.

HEALTH CARE

- SB 207 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- SB 266 Expands programs within the Department of Health.
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- SB 275 Allows the placement of a deaf or hearing impaired notation on driver's licenses.
- SB 393 Expands provisions regarding dental services.
- SB 514 Requires compliance with federal law in drug labeling.
- HB 78 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- HB 106 Expands programs within the Department of Health.
- HB 328 Makes several modifications to the managed care and insurance statutes.
- HB 431 Makes a technical change regarding temporary licenses for military personnel in trauma training.
- HB 603 Promotes Alzheimer's awareness and creates the Department of Health and Senior Services.
- HB 607 Expands provisions allowing gratuitous dental services.
- HB 679 Allows state employees to take a leave of absence to serve as a bone marrow or human organ donor.
- HB 762 Requires insurance companies and Medicaid to provide additional health services to women.
- HB 796 Requires compliance with the current federal labeling requirements in the Federal Food, Drug & Cosmetic Act.
- HB 821 Expands the Missouri Kidney Program to provide immuno-suppressive pharmaceuticals to other transplant patients.
- HB 955 Revises the Hospital Federal Reimbursement Allowance Program.

HEALTH CARE PROFESSIONALS

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.
- SB 207 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- SB 266 Expands programs within the Department of Health.
- SB 393 Expands provisions regarding dental services.
- SB 619 Changes provisions for emergency care service providers; state easement to City of Sedalia.
- HB 78 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- HB 106 Expands programs within the Department of Health.
- HB 328 Makes several modifications to the managed care and insurance statutes.
- HB 431 Makes a technical change regarding temporary licenses for military personnel in trauma training.
- HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.
- HB 607 Expands provisions allowing gratuitous dental services.
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HEALTH DEPT.

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.
- SB 110 Corrects intersectional references in law regulating the manufacture, renovation and sale of mattresses.
- SB 266 Expands programs within the Department of Health.
- SB 514 Requires compliance with federal law in drug labeling.
- HB 10 Appropriations for the depts. of Health & Mental Health, the Board of Public Bldgs. & the MO Health Facets. Review Comm..
- HB 106 Expands programs within the Department of Health.
- HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.
- HB 603 Promotes Alzheimer's awareness and creates the Department of Health and Senior Services.
- HB 796 Requires compliance with the current federal labeling requirements in the Federal Food, Drug & Cosmetic Act.

HEALTH, PUBLIC

- SB 130 Requires placement of warning signs in establishments licensed to sell or serve alcoholic beverages.
- SB 266 Expands programs within the Department of Health.
- HB 106 Expands programs within the Department of Health.
- HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.
- HB 603 Promotes Alzheimer's awareness and creates the Department of Health and Senior Services.
- HB 679 Allows state employees to take a leave of absence to serve as a bone marrow or human organ donor.
- HB 762 Requires insurance companies and Medicaid to provide additional health services to women.
- HB 821 Expands the Missouri Kidney Program to provide immuno-suppressive pharmaceuticals to other transplant patients.

HIGHER EDUCATION DEPT.

- SB 295 Revises use of capital funds for public community colleges.
- HB 3 Appropriation for the Department of Higher Education.
- HB 218 Creates several education and research programs and closes board meetings to student representatives.

HIGHWAY PATROL

- SB 5 Revises Criminal Activity Forfeiture Act.
- SB 435 Exempts registered historic vehicles from emissions testing.
- HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.

- HB 163 Includes moneys for certain reimbursements within the Highway Patrol Motor Vehicle and Aircraft Revolving Fund.
- HB 381 Creates felony for sale or distribution of gray market cigarettes & enforcement provisions to prohibit sales to minors.
- HB 470 Creates the "Sergeant Robert Kimberling Memorial Highway" on a portion of I-29 in Buchanan County.

HISTORIC PRESERVATION

- SB 470 Creates the Second State Capitol Commission.

HOLIDAYS

- SCR 006 Establishes April 6th of each year as Tartan Day in Missouri.

HOSPITALS

- SB 393 Expands provisions regarding dental services.
- HB 955 Revises the Hospital Federal Reimbursement Allowance Program.

HOUSING

- SB 178 Amends law regarding condominium association's bylaws and limited liability company filing requirements.
- SB 317 Exempts used manufactured homes and certain used modular units from complying with manufactured housing codes.
- HB 133 Modifies several property redevelopment provisions.

INSURANCE DEPT.

- SB 151 Prohibits insurers from placing applicants in high-risk coverage categories based on no prior insurance coverage.
- SB 193 Governs the qualifications for licensing insurance producers and revises deduction for insurance examination fees.
- SB 241 Allows mutual insurance companies to notify policy holders via newspaper under certain merger conditions.
- SB 521 Clarifies duty of workers' compensation insurance carriers.
- SB 605 Modifies law regarding licensing of surplus lines insurance.
- HB 7 Appropriations for the departments of Economic Development, Insurance and Labor and Industrial Relations.
- HB 212 Merging mutual insurance companies shall provide notice in two daily newspapers.
- HB 328 Makes several modifications to the managed care and insurance statutes.
- HB 664 Makes changes to charitable gift annuities provisions.

INSURANCE-GENERAL

- SB 193 Governs the qualifications for licensing insurance producers and revises deduction for insurance examination fees.
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- SB 241 Allows mutual insurance companies to notify policy holders via newspaper under certain merger conditions.
- SB 605 Modifies law regarding licensing of surplus lines insurance.
- HB 212 Merging mutual insurance companies shall provide notice in two daily newspapers.
- HB 459 Allows the estimation of contingent liabilities for the purpose of fixing a creditor's claim in a liquidation estate.

INSURANCE-LIFE

- SB 227 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.
- HB 241 Revises the principal and income act and the rule against perpetuities; revises estate tax.
- HB 644 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.

INSURANCE-MEDICAL

- HB 279 Expands the newborn screening requirements to include more treatable and manageable disorders.
- HB 328 Makes several modifications to the managed care and insurance statutes.
- HB 762 Requires insurance companies and Medicaid to provide additional health services to women.

INSURANCE-PROPERTY

- SB 151 Prohibits insurers from placing applicants in high-risk coverage categories based on no prior insurance coverage.

INTERSTATE COOPERATION

- HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.

JUDGES

- SB 223 Clarifies procedure for court instructions regarding lesser included offenses.
- SB 267 Revises various civil and criminal procedures.
- SB 270 Certain chief administrative law judges shall be elected for two years.
- SB 371 Modifies and clarifies provisions of certain state retirement systems.
- HB 12 Appropriations for state elected officials, judiciary and the General Assembly.
- HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.
- HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.
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JURIES

- SB 267 Revises various civil and criminal procedures.
HB 945 Raises juror pay and transfers certain Greene County court fees to justice fund.

KANSAS CITY

- SB 4 Peace officers information within the Dept. of Revenue is confidential and changes salary for Kansas City police.
SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.
SB 407 Allows motorists to receive Missouri Botanical and various municipal zoo specialized license plates.
SB 462 Revises numerous provisions relating to agriculture.
HB 321 Extends the termination date on the Kansas City public transportation sales tax from 2001 to 2003.
HB 660 Makes various changes in the Public School Retirement System.
HB 742 Authorizes the Governor to sell certain property in Platte County.

LABOR AND INDUSTRIAL RELATIONS DEPT.

- HB 7 Appropriations for the departments of Economic Development, Insurance and Labor and Industrial Relations.
HB 107 Creates procedures for disbursements from the Tort Victim's Compensation Fund.

LAKES, RIVERS AND WATERWAYS

- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.

LANDLORDS AND TENANTS

- SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
SB 267 Revises various civil and criminal procedures.
HB 133 Modifies several property redevelopment provisions.

LAW ENFORCEMENT OFFICERS AND AGENCIES

- SB 4 Peace officers information within the Dept. of Revenue is confidential and changes salary for Kansas City police.
SB 5 Revises Criminal Activity Forfeiture Act.
SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
SB 224 Authorizes the creation of law enforcement districts in Camden County funded with property tax.
SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.
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- SB 341 Requires sheriffs to become certified peace officers.
HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.
HB 144 Requires warrant checks prior to release of prisoners.
HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.
HB 491 Eliminates office of marshall in third classification cities contracting for police services.
HB 621 Creates Missouri State Penitentiary Redevelopment Commission.

LIABILITY

- SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
SB 197 Expands grant of immunity for the donation of certain fire equipment.
HB 107 Creates procedures for disbursements from the Tort Victim's Compensation Fund.

LICENSES-DRIVER'S

- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
SB 275 Allows the placement of a deaf or hearing impaired notation on driver's licenses.
SB 406 Allows Director of Revenue to enter into agreements with foreign countries regarding reciprocity of driver's licenses.
SB 436 Requires licensee to apply for a duplicate commercial driver's license when a name change occurs.
SB 540 Prohibits Revenue Department from collecting information which can individually identify a person.
HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.
HB 648 Modifies law regarding issuance of a driver's permit.
HB 897 Prohibits Revenue Department from collecting information which can individually identify a person.

LICENSES-LIQUOR AND BEER

- SB 556 Authorizes microbrewing licenses on excursion gambling boats and premises.

LICENSES-MISC

- SB 619 Changes provisions for emergency care service providers; state easement to City of Sedalia.
HB 157 Changes date for return of marriage licenses to the issuing official; prohibits same sex marriage.
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- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.

LICENSES-MOTOR VEHICLE

- SB 4 Peace officers information within the Dept. of Revenue is confidential and changes salary for Kansas City police.
- SB 13 Exempts retired members of the military from paying the additional fee for retired military plates.
- SB 111 Revenue Department to cooperate in federal-state agreement to recognize disabled persons license plates.
- SB 142 Allows owners of different classes of motor vehicles to apply for Korean War Veteran license plates.
- SB 407 Allows motorists to receive Missouri Botanical and various municipal zoo specialized license plates.
- SB 435 Exempts registered historic vehicles from emissions testing.
- SB 442 Allows individuals to obtain a Safari Club license plate after paying a special fee.
- SB 520 Clarifies the highest weight for property-carrying local and beyond local commercial vehicles.
- HB 691 Requires Director of Revenue to notify registered motor vehicle owners of upcoming registration.

LICENSES-PROFESSIONAL

- SB 193 Governs the qualifications for licensing insurance producers and revises deduction for insurance examination fees.
- SB 357 Modifies licensing provisions for psychologists and professional counselors.
- SB 384 Adds additional criteria for the denial or revocation of dietitians' licenses.
- SB 538 Allows residential mortgage brokers to post bond instead of providing annual audits.
- SB 605 Modifies law regarding licensing of surplus lines insurance.
- HB 48 Revises provisions for funeral directors and embalmers.
- HB 266 Limits to whom real estate brokers and agents may pay commissions or other consideration.
- HB 431 Makes a technical change regarding temporary licenses for military personnel in trauma training.
- HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.

LIENS

- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.
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MANUFACTURED HOUSING

- SB 317 Exempts used manufactured homes and certain used modular units from complying with manufactured housing codes.

MARRIAGE AND DIVORCE

- SB 227 Life insurance beneficiary designations made after August 28 shall not be presumed revoked upon divorce.
- HB 157 Changes date for return of marriage licenses to the issuing official; prohibits same sex marriage.
- HB 454 Allows a guardian and conservator who is the spouse of ward to remain guardian or conservator after divorce.

MEDICAID

- HB 762 Requires insurance companies and Medicaid to provide additional health services to women.
- HB 955 Revises the Hospital Federal Reimbursement Allowance Program.

MEDICAL PROCEDURES AND PERSONNEL

- SB 207 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- SB 266 Expands programs within the Department of Health.
- SB 393 Expands provisions regarding dental services.
- HB 78 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- HB 279 Expands the newborn screening requirements to include more treatable and manageable disorders.
- HB 328 Makes several modifications to the managed care and insurance statutes.
- HB 603 Promotes Alzheimer's awareness and creates the Department of Health and Senior Services.
- HB 607 Expands provisions allowing gratuitous dental services.
- HB 762 Requires insurance companies and Medicaid to provide additional health services to women.
- HB 821 Expands the Missouri Kidney Program to provide immuno-suppressive pharmaceuticals to other transplant patients.

MENTAL HEALTH

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.
- HB 502 Authorizes a conveyance of certain property in St. Francois County to the American Legion.

MENTAL HEALTH DEPT.

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.

- SB 87 Requires assessment to be filed with petition for civil commitment of sexually violent predators.
- SB 200 Creates Women Offender Program in the Department of Corrections.
- HB 10 Appropriations for the depts. of Health & Mental Health, the Board of Public Bldgs. & the MO Health Facts. Review Comm..
- HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.

MERCHANDISING PRACTICES

- SB 89 Creates and amends crimes relating to controlled substances and anhydrous ammonia.
- SB 514 Requires compliance with federal law in drug labeling.

MILITARY AFFAIRS

- SB 13 Exempts retired members of the military from paying the additional fee for retired military plates.
- SB 142 Allows owners of different classes of motor vehicles to apply for Korean War Veteran license plates.
- SB 252 Authorizes the Missouri National Guard and the City of Joplin to exchange two parcels of property.
- HB 431 Makes a technical change regarding temporary licenses for military personnel in trauma training.
- HB 441 Allows World War I, World War II and Korean War veterans to receive a high school diploma.

MINING AND OIL AND GAS PRODUCTION

- HB 425 Revises the operation and participation of the one call notification center for excavators.
- HB 453 Modifies various provisions relating to commerce.

MORTGAGES AND DEEDS

- SB 179 Exempts residential mortgage brokers who post sufficient bond from conducting annual certified audits.
- SB 538 Allows residential mortgage brokers to post bond instead of providing annual audits.
- HB 219 Amends various provisions of the fencing law.

MOTOR CARRIERS

- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
- HB 458 Permits the use of flashing signals by church buses.
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MOTOR FUEL

- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
- SB 462 Revises numerous provisions relating to agriculture.

MOTOR VEHICLES

- SB 13 Exempts retired members of the military from paying the additional fee for retired military plates.
- SB 142 Allows owners of different classes of motor vehicles to apply for Korean War Veteran license plates.
- SB 151 Prohibits insurers from placing applicants in high-risk coverage categories based on no prior insurance coverage.
- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
- SB 275 Allows the placement of a deaf or hearing impaired notation on driver's licenses.
- SB 406 Allows Director of Revenue to enter into agreements with foreign countries regarding reciprocity of driver's licenses.
- SB 407 Allows motorists to receive Missouri Botanical and various municipal zoo specialized license plates.
- SB 435 Exempts registered historic vehicles from emissions testing.
- SB 520 Clarifies the highest weight for property-carrying local and beyond local commercial vehicles.
- HB 163 Includes moneys for certain reimbursements within the Highway Patrol Motor Vehicle and Aircraft Revolving Fund.
- HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.
- HB 420 Removes termination date on motorcycle safety education program.
- HB 458 Permits the use of flashing signals by church buses.
- HB 575 Revises motor vehicle franchise practices law and creates recreational vehicle franchise law.
- HB 648 Modifies law regarding issuance of a driver's permit.
- HB 691 Requires Director of Revenue to notify registered motor vehicle owners of upcoming registration.
- HB 693 Revises certain procedures for Administrative Hearing Commission and extends AHC jurisdiction.
- HB 788 Repeals certain provisions relating to motorcycle franchise practices.
- HB 933 Clarifies that sales tax applies to sale and lease of motor vehicles and motorcycles.

NATIONAL GUARD

- SB 553 Authorizes Northwest Missouri State to lease property to the City of Maryville and the National Guard.
- HB 409 Authorizes a conveyance between the Missouri national guard and the city of Joplin.

- HB 779 Authorizes Northwest Missouri State to lease property to the City of Maryville and the National Guard.

NATURAL RESOURCES DEPT.

- SB 58 Establishes a Bird Appreciation Day.
SB 256 Pertains to water, stormwater and sewer service.
SB 374 Establishes a program of air pollution emissions banking and trading.
SB 435 Exempts registered historic vehicles from emissions testing.
SB 451 Allows spending of the Energy Set-aside Program Fund for administration of DNR's energy responsibilities and activities.
SB 462 Revises numerous provisions relating to agriculture.
SB 470 Creates the Second State Capitol Commission.
SB 568 Authorizes certain property exchanges.
HB 6 Appropriations for the departments of Natural Resources, Agriculture and Conservation.
HB 453 Modifies various provisions relating to commerce.
HB 501 Increases the authorization for water pollution bonds; changes sewer district provisions for certain districts.
HB 904 Expands the MO Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.
HB 909 Authorizes exchange of property interests between the Department of Natural Resources and the City of Lexington.

NEWSPAPERS AND PUBLICATIONS

- SB 241 Allows mutual insurance companies to notify policy holders via newspaper under certain merger conditions.

NURSING AND BOARDING HOMES

- SB 48 Modifies the Family Care Safety Registry and other provisions of the law relating to children.
HB 603 Promotes Alzheimer's awareness and creates the Department of Health and Senior Services.
HB 881 Modifies election process for nursing home district directors.

PARKS AND RECREATION

- SB 203 Exempts food from the sales tax imposed by the metropolitan park and recreation system.
HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.

PHYSICIANS

- SB 207 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
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- HB 78 Expands those who are not liable for information reported to the State Board of Registration for the Healing Arts.
- HB 218 Creates several education and research programs and closes board meetings to student representatives.
- HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.

PLANNING AND ZONING

- SB 462 Revises numerous provisions relating to agriculture.

POLITICAL SUBDIVISIONS

- SB 224 Authorizes the creation of law enforcement districts in Camden County funded with property tax.
- SB 256 Pertains to water, stormwater and sewer service.
- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- SB 387 Allows electric utilities to recover certain costs impacted by fuel or purchased power price increases.
- SB 441 Allows Warrensburg to receive bids to be the depository of city funds from banks at every regular meeting.
- SB 462 Revises numerous provisions relating to agriculture.
- SB 619 Changes provisions for emergency care service providers; state easement to City of Sedalia.
- HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.
- HB 133 Modifies several property redevelopment provisions.
- HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.
- HB 501 Increases the authorization for water pollution bonds; changes sewer district provisions for certain districts.

PRISONS AND JAILS

- HB 144 Requires warrant checks prior to release of prisoners.
- HB 180 Creates a women offender program in the department of corrections.
- HB 621 Creates Missouri State Penitentiary Redevelopment Commission.
- HB 808 Authorizes the conveyance of property located in Cole County to Jefferson City and the Governor Hotel, LLC.

PROPERTY, REAL AND PERSONAL

- SB 5 Revises Criminal Activity Forfeiture Act.
- SB 86 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
- SB 178 Amends law regarding condominium association's bylaws and limited liability company filing requirements.
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- SB 179 Exempts residential mortgage brokers who post sufficient bond from conducting annual certified audits.
- HB 133 Modifies several property redevelopment provisions.
- HB 185 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
- HB 219 Amends various provisions of the fencing law.
- HB 241 Revises the principal and income act and the rule against perpetuities; revises estate tax.
- HB 266 Limits to whom real estate brokers and agents may pay commissions or other consideration.
- HB 408 Authorizes conveyances of graves in public cemeteries back to the county or municipality.
- HB 425 Revises the operation and participation of the one call notification center for excavators.
- HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.
- HB 596 Makes a technical change in statute dealing with planned industrial expansion in St. Louis.
- HB 621 Creates Missouri State Penitentiary Redevelopment Commission.
- HB 745 Allows unclaimed property to be collected by a county or city public administrator.

PSYCHOLOGISTS

- SB 357 Modifies licensing provisions for psychologists and professional counselors.

PUBLIC ASSISTANCE

- SB 236 Modifies provisions relating to children and families.

PUBLIC BUILDINGS

- SB 470 Creates the Second State Capitol Commission.
- HB 10 Appropriations for the depts. of Health & Mental Health, the Board of Public Bldgs. & the MO Health Facts. Review Comm..

PUBLIC OFFICERS

- SB 341 Requires sheriffs to become certified peace officers.
- SB 345 Relating to property maintenance codes.
- SB 441 Allows Warrensburg to receive bids to be the depository of city funds from banks at every regular meeting.
- HB 12 Appropriations for state elected officials, judiciary and the General Assembly.

PUBLIC RECORDS, PUBLIC MEETINGS

- SB 441 Allows Warrensburg to receive bids to be the depository of city funds from banks at every regular meeting.
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- SB 575 Revises public school reporting requirements.
HB 218 Creates several education and research programs and closes board meetings to student representatives.
HB 567 Revises provisions for various boards and professions under the Division of Professional Registration.
HB 865 Revises public school reporting requirements.

PUBLIC SAFETY DEPT.

- SB 86 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
SB 130 Requires placement of warning signs in establishments licensed to sell or serve alcoholic beverages.
SB 341 Requires sheriffs to become certified peace officers.
SB 435 Exempts registered historic vehicles from emissions testing.
SB 544 Authorizes the Missouri Veterans' Commission to grant an easement to Spectra Communications.
SB 556 Authorizes microbrewing licenses on excursion gambling boats and premises.
HB 8 Appropriations for the Department of Public Safety.
HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.
HB 163 Includes moneys for certain reimbursements within the Highway Patrol Motor Vehicle and Aircraft Revolving Fund.
HB 185 Authorizes certain counties to impose building codes and modifies other provisions of law pertaining to counties.
HB 207 Allows vehicles to be donated for veterans, and provides matching grants for veterans' service officers.
HB 381 Creates felony for sale or distribution of gray market cigarettes & enforcement provisions to prohibit sales to minors.
HB 420 Removes termination date on motorcycle safety education program.
HB 732 Makes technical revisions to water patrol law and deletes the bonding requirement for water patrol officers.

PUBLIC SERVICE COMMISSION

- SB 234 Exempts certain interstate telecommunications services from sales taxes.
SB 387 Allows electric utilities to recover certain costs impacted by fuel or purchased power price increases.

RAILROADS

- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
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RETIREMENT-LOCAL GOVERNMENT

- SB 274 Modifies provisions relating to employees and contributions to the County Employee's Retirement System.
- SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.

RETIREMENT-SCHOOLS

- SB 316 Requires school retirement systems to promulgate joint rules.
- HB 660 Makes various changes in the Public School Retirement System.

RETIREMENT-STATE

- SB 371 Modifies and clarifies provisions of certain state retirement systems.

RETIREMENT SYSTEMS AND BENEFITS-GENERAL

- SB 10 Modifies judicial procedures for expiration of qualified domestic relations orders.
- SB 274 Modifies provisions relating to employees and contributions to the County Employee's Retirement System.
- SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.
- SB 371 Modifies and clarifies provisions of certain state retirement systems.
- HB 660 Makes various changes in the Public School Retirement System.

REVENUE DEPT.

- SB 4 Peace officers information within the Dept. of Revenue is confidential and changes salary for Kansas City police.
- SB 13 Exempts retired members of the military from paying the additional fee for retired military plates.
- SB 111 Revenue Department to cooperate in federal-state agreement to recognize disabled persons license plates.
- SB 234 Exempts certain interstate telecommunications services from sales taxes.
- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
- SB 267 Revises various civil and criminal procedures.
- SB 275 Allows the placement of a deaf or hearing impaired notation on driver's licenses.
- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- SB 406 Allows Director of Revenue to enter into agreements with foreign countries regarding reciprocity of driver's licenses.
- SB 407 Allows motorists to receive Missouri Botanical and various municipal zoo specialized license plates.
- SB 436 Requires licensee to apply for a duplicate commercial driver's license when a name change occurs.
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- SB 442 Allows individuals to obtain a Safari Club license plate after paying a special fee.
- SB 520 Clarifies the highest weight for property-carrying local and beyond local commercial vehicles.
- SB 540 Prohibits Revenue Department from collecting information which can individually identify a person.
- HB 4 Appropriations for the departments of Revenue and Transportation.
- HB 129 Prohibits certain government contracts for the examination of taxpayer records.
- HB 302 Lowers blood alcohol content from .10 to .08 and revises other measures related to alcohol related offenses.
- HB 321 Extends the termination date on the Kansas City public transportation sales tax from 2001 to 2003.
- HB 381 Creates felony for sale or distribution of gray market cigarettes & enforcement provisions to prohibit sales to minors.
- HB 590 The directors of the departments of economic development and revenue shall jointly administer the ADA tax credit.
- HB 648 Modifies law regarding issuance of a driver's permit.
- HB 691 Requires Director of Revenue to notify registered motor vehicle owners of upcoming registration.
- HB 788 Repeals certain provisions relating to motorcycle franchise practices.
- HB 816 Replaces oath requirement with signature requirement for making claim for certain tax refunds.
- HB 825 Exempts bullion and investment coin from local sales taxes.
- HB 897 Prohibits Revenue Department from collecting information which can individually identify a person.
- HB 933 Clarifies that sales tax applies to sale and lease of motor vehicles and motorcycles.

REVISION BILLS

- SRB0606 Repeals obsolete and expired sections of law.

ROADS AND HIGHWAYS

- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
- HB 202 Modifies provisions relating to transportation development districts.
- HB 470 Creates the "Sergeant Robert Kimberling Memorial Highway" on a portion of I-29 in Buchanan County.
- HB 473 Makes cut-leaved teasel, common teasel and kudzu vine noxious weeds and requires control.

SAINT LOUIS

- SB 267 Revises various civil and criminal procedures.
- SB 290 Revises pension benefits for prosecuting attorneys, police officers and firemen.
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- SB 407 Allows motorists to receive Missouri Botanical and various municipal zoo specialized license plates.
- SB 430 Allows St. Louis City to levy property tax for musical services.
- SB 435 Exempts registered historic vehicles from emissions testing.
- SB 515 Modifies requirements for items that are filed with the Recorder of Deeds.
- HB 596 Makes a technical change in statute dealing with planned industrial expansion in St. Louis.
- HB 606 Modifies requirements for items that are filed with the recorders of deeds.
- HB 660 Makes various changes in the Public School Retirement System.
- HJR 011 Proposes a constitutional amendment to allow the City of St. Louis to amend charter to provide for county officers.

SALARIES

- SB 4 Peace officers information within the Dept. of Revenue is confidential and changes salary for Kansas City police.

SAVINGS AND LOAN

- SB 186 Changes provisions pertaining to entities regulated by the Division of Finance.
- SB 538 Allows residential mortgage brokers to post bond instead of providing annual audits.
- HB 738 Modifies financial services law, particularly unsecured consumer loans and banking.

SECRETARY OF STATE

- SB 288 Revises provisions relating to recorders of deeds, corporations and matters regulated by the Secretary of State.
- SB 470 Creates the Second State Capitol Commission.
- HB 453 Modifies various provisions relating to commerce.

SECURITIES

- SB 288 Revises provisions relating to recorders of deeds, corporations and matters regulated by the Secretary of State.

SEWERS AND SEWER DISTRICTS

- SB 256 Pertains to water, stormwater and sewer service.
- HB 425 Revises the operation and participation of the one call notification center for excavators.

SOCIAL SERVICES DEPT.

- SB 236 Modifies provisions relating to children and families.
- HB 11 Appropriations for the Department of Social Services.
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- HB 603 Promotes Alzheimer's awareness and creates the Department of Health and Senior Services.
- HB 693 Revises certain procedures for Administrative Hearing Commission and extends AHC jurisdiction.
- HB 955 Revises the Hospital Federal Reimbursement Allowance Program.

SOIL CONSERVATION

- HB 904 Expands the MO Economic Diversification and Afforestation Act of 1990 to include more recent agroforestry practices.

STATE EMPLOYEES

- HB 679 Allows state employees to take a leave of absence to serve as a bone marrow or human organ donor.

TAXATION AND REVENUE-GENERAL

- SB 193 Governs the qualifications for licensing insurance producers and revises deduction for insurance examination fees.
- SB 234 Exempts certain interstate telecommunications services from sales taxes.
- HB 129 Prohibits certain government contracts for the examination of taxpayer records.
- HB 321 Extends the termination date on the Kansas City public transportation sales tax from 2001 to 2003.
- HB 590 The directors of the departments of economic development and revenue shall jointly administer the ADA tax credit.
- HB 816 Replaces oath requirement with signature requirement for making claim for certain tax refunds.
- HB 825 Exempts bullion and investment coin from local sales taxes.
- HB 881 Modifies election process for nursing home district directors.
- HB 933 Clarifies that sales tax applies to sale and lease of motor vehicles and motorcycles.

TAXATION AND REVENUE-INCOME

- HB 590 The directors of the departments of economic development and revenue shall jointly administer the ADA tax credit.

TAXATION AND REVENUE-PROPERTY

- SB 224 Authorizes the creation of law enforcement districts in Camden County funded with property tax.
- SB 430 Allows St. Louis City to levy property tax for musical services.

TAXATION AND REVENUE-SALES AND USE

- SB 203 Exempts food from the sales tax imposed by the metropolitan park and recreation system.

- SB 234 Exempts certain interstate telecommunications services from sales taxes.
- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- SB 352 Defines terms relating to the capital improvements sales tax in certain municipalities.
- HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes various other changes in law enforcement and crimes.
- HB 242 Authorizes several cities and counties to impose tourism taxes.
- HB 321 Extends the termination date on the Kansas City public transportation sales tax from 2001 to 2003.
- HB 816 Replaces oath requirement with signature requirement for making claim for certain tax refunds.
- HB 825 Exempts bullion and investment coin from local sales taxes.
- HB 933 Clarifies that sales tax applies to sale and lease of motor vehicles and motorcycles.

TEACHERS

- SB 316 Requires school retirement systems to promulgate joint rules.
- HB 660 Makes various changes in the Public School Retirement System.

TELECOMMUNICATIONS

- SB 234 Exempts certain interstate telecommunications services from sales taxes.

TOBACCO PRODUCTS

- HB 381 Creates felony for sale or distribution of gray market cigarettes & enforcement provisions to prohibit sales to minors.

TOURISM

- SB 323 Authorizes certain political subdivisions to enact a sales tax, upon voter approval, for specific purposes.
- HB 242 Authorizes several cities and counties to impose tourism taxes.

TRANSPORTATION

- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
- HB 202 Modifies provisions relating to transportation development districts.
- HB 321 Extends the termination date on the Kansas City public transportation sales tax from 2001 to 2003.
- HB 458 Permits the use of flashing signals by church buses.

TRANSPORTATION DEPT.

- SB 244 Suspends driver's license of those who steal gas, penalizes speeders in work zones, and revises other vehicle laws.
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- HB 4 Appropriations for the departments of Revenue and Transportation.
HB 5 Appropriations for the Office of Administration, Department of
Transportation and Chief Executive's Office.
HB 458 Permits the use of flashing signals by church buses.

TREASURER, STATE

- HB 621 Creates Missouri State Penitentiary Redevelopment Commission.

UNIFORM LAWS

- SB 288 Revises provisions relating to recorders of deeds, corporations and
matters regulated by the Secretary of State.

UTILITIES

- SB 234 Exempts certain interstate telecommunications services from sales
taxes.
SB 369 Allows political subdivisions to require permits for public utility
right-of-way use.
SB 387 Allows electric utilities to recover certain costs impacted by fuel or
purchased power price increases.
SB 431 Authorizes the Governor to convey the rights to certain water held in
Mark Twain Lake.
HB 361 Authorizes the Governor to convey the rights to certain water held in
Mark Twain Lake.
HB 425 Revises the operation and participation of the one call notification
center for excavators.

VETERANS

- SB 13 Exempts retired members of the military from paying the additional
fee for retired military plates.
SB 142 Allows owners of different classes of motor vehicles to apply for
Korean War Veteran license plates.
HB 207 Allows vehicles to be donated for veterans, and provides matching
grants for veterans' service officers.
HB 441 Allows World War I, World War II and Korean War veterans to
receive a high school diploma.

VICTIMS OF CRIME

- HB 80 Authorizes multi jurisdictional antifraud enforcement groups; makes
various other changes in law enforcement and crimes.

VITAL STATISTICS

- HB 157 Changes date for return of marriage licenses to the issuing official;
prohibits same sex marriage.
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WASTE-SOLID

SB 345 Relating to property maintenance codes.

WATER PATROL

SB 443 Removes the requirement that water patrol officers be bonded in the same manner as sheriffs.

HB 732 Makes technical revisions to water patrol law and deletes the bonding requirement for water patrol officers.

WATER RESOURCES AND WATER DISTRICTS

SB 431 Authorizes the Governor to convey the rights to certain water held in Mark Twain Lake.

SB 462 Revises numerous provisions relating to agriculture.

HB 361 Authorizes the Governor to convey the rights to certain water held in Mark Twain Lake.

HB 501 Increases the authorization for water pollution bonds; changes sewer district provisions for certain districts.

WORKERS COMPENSATION

SB 521 Clarifies duty of workers' compensation insurance carriers.

HB 107 Creates procedures for disbursements from the Tort Victim's Compensation Fund.
